QC
89
U5P5
1911

UC-NRLF
$B 564 773

BUREAU OF MUNICIPAL RESEARCH
OF PHILADELPHIA

Report No. 1

THE WEIGHTS AND MEASURES SITUATION IN PHILADELPHIA

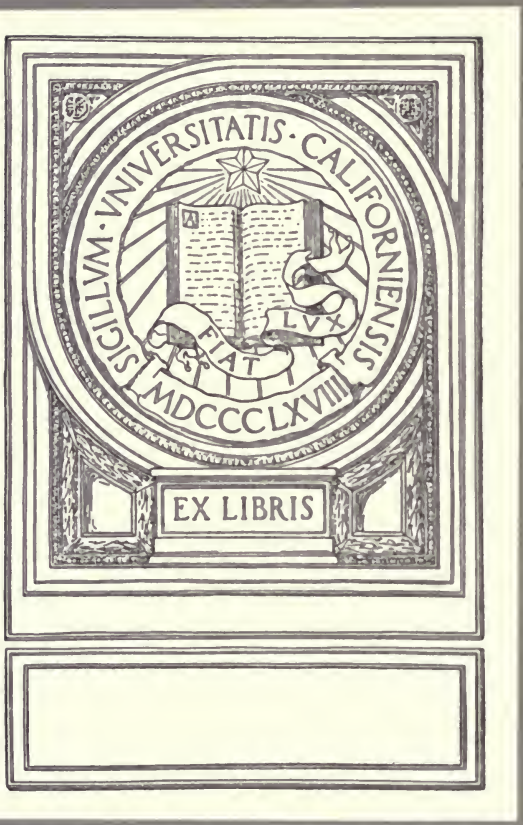
A Report Setting Forth the Results of the Lack of a System of Official Inspection and Regulation, together with a Digest of Existing Laws and Ordinances on the Subject and a Suggested Legislative Program

LIBRARY OF THE UNIVERSITY OF PENNA.

Submitted to the Mayor
March 3, 1911

BUREAU OF MUNICIPAL RESEARCH
REAL ESTATE TRUST BUILDING
PHILADELPHIA
1911

Price, Fifty Cents


SIGILLVM · VNIVERSITATIS · CALIFORNIENSIS
LVX
FIAT
MDCCCLXVIII
EX LIBRIS

Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

http://www.archive.org/details/weightsmeasuress00burerich

UNIV. OF CALIFORNIA

GOVERNMENT STANDARD POUND WEIGHTS

Pound troy and pound avoirdupois weights belonging to the set of standard weights and measures furnished by the United States Government to the State of Pennsylvania. Purchased by the Bureau of Municipal Research from a brass foundry in Harrisburg.

BUREAU OF MUNICIPAL RESEARCH
OF PHILADELPHIA

Report No. 1

THE WEIGHTS AND MEASURES SITUATION IN PHILADELPHIA

A Report Setting Forth the Results of the Lack of a System of Official Inspection and Regulation, together with a Digest of Existing Laws and Ordinances on the Subject and a Suggested Legislative Program

Submitted to the Mayor
March 3, 1911

BUREAU OF MUNICIPAL RESEARCH
REAL ESTATE TRUST BUILDING
PHILADELPHIA
1911

QC89
U5P5
1911

UNIV. OF
CALIFORNIA

LETTER OF TRANSMITTAL

March 3, 1911.

Hon. John E. Reyburn,
Mayor of Philadelphia,
Philadelphia, Pa.

Dear Sir:—

We are submitting herewith for your consideration, in advance of general publication, a copy of a report upon weights and measures conditions in Philadelphia. The report contains the results of a careful investigation of the local situation, together with a discussion of existing laws and ordinances on the subject, and suggestions for additional legislation.

Our study of the statutes has led to the conclusion that, under existing laws, the city has authority to establish a Bureau of Weights and Measures; this authority having been conferred by the Charter of 1789, entitled "An act to incorporate the city of Philadelphia" (11 Mar., 1789, §16, 2 Smith's Laws, 467.)

The results of our study of the actual practice of dealers with respect to weights and measures may be summarized briefly as follows:

Tests (540 in number) were made of commodities sold by representative dealers in all parts of the city.

Only one of fifteen tests of coal showed a full legal ton of 2240 pounds, and this one was 141 pounds over weight; two came within the legal limit of forty pounds. The greatest shortage amounted to 393 pounds on a ton. The shortage on the total amount purchased was over six per cent.

Of 225 weight tests of groceries, 158 showed a shortage, and 58 an excess; the average shortage being seventy per cent., and the average excess being twenty-five per cent.

M56563

Of fifty measure tests of groceries, forty-six showed a shortage, the shortage being thirteen per cent. on the total purchases.

Of twenty tests of meats at the Reading Terminal market, fourteen were short in weight; the greatest excess on any tests being seven per cent., the greatest shortage, twenty-one per cent.

Of twenty tests of meats and provisions at the two markets belonging to the city, twelve showed a shortage, and with two exceptions these shortages were on high-priced commodities. With two exceptions also, the tests showing an excess were on low-priced commodities. The greatest excess was twenty per cent.; the greatest shortage, fourteen per cent.

Of ten purchases of bread, eight weighed less than a pound, and none were sold by the pound as the law requires.

Of 200 samples of dry goods, 116 were short, and 80 in excess.

It will be noticed that these tests generally show that the customer is at a disadvantage in purchasing articles of every-day consumption.

The reason for this condition is two-fold: (1) The lack of an administrative department or bureau to enforce existing laws; (2) The presence on the statute books of certain laws which need to be amended or supplemented to fit present conditions.

We submit for your approval, a tentative program of legislation, embracing five sub-divisions of the subject: (1) Standards and denominations; (2) The manner of sale of various commodities or classes of commodities; (3) The penalty for acts intended to defraud the purchaser, whether through shortage, substitution, or misrepresentation; (4) The manner of inspection by administrative officials; and (5) The marking of the net contents of containers in terms of weight, measure, or numerical count.

Each proposal is independent in itself and, so far as possible, each calls for amendments to existing laws rather

than new legislation. Our aim has been simply to make such suggestions as would tend to bring about the results which, as shown by the acts themselves, past legislatures have tried to effect. Not all of the proposed measures are of equal importance. As to the desirability of the first, relating to standards and denominations, there can be no question, for the law as it stands is clearly obsolete in several particulars. The second, relating to the manner of sale of commodities, we regard as eminently desirable. The third, relating to penalties, is necessary if our laws are to command respect. The fifth, relating to the net contents of containers, is suggested because it deals with an important branch of the subject, but this is a measure which may well be deferred, pending action of congress.

The proposal which we most urgently recommend to your attention is the fourth, relating to the manner of inspection of weights and measures by administrative officials, for we believe that the experience of the last twenty-eight years has fully demonstrated the need for a system of regulation and inspection. As guides, we have the legislation already in force in other progressive states, and we have a so-called "model law" which was drawn up and approved by the annual conference on weights and measures held in Washington, in February of the present year. As the delegates to this conference were state officials charged with the enforcement of weights and measures laws in their respective states, their recommendations deserve careful consideration.

In several recent sessions of the legislature, bills relating to weights and measures have been introduced, and several are under consideration by the present legislature. The time is therefore opportune for a comprehensive consideration of the whole subject. This being the case, it would seem desirable that the particulars of the weights and measures situation in Philadelphia be presented in some detail, together with specific discussions of existing laws,

and specific recommendations for changes and additions. The purpose of the present report is to meet this need.

We have suggested that the City of Philadelphia now has authority to establish a Bureau of Weights and Measures without additional legislation. But we venture to suggest, also, that it might be well to defer local action until the present legislature shall have had opportunity to act in the matter. In default of such action, we would recommend that Councils be requested to make such provisions as may be made under existing state laws. We have in preparation for submission at a later date, a tentative draft of an ordinance and an outline of organization and procedure for the proposed bureau.

In view of the general public interest in your plans for the development of a greater and better Philadelphia, we suggest that the facts presented in our report offer a timely opportunity for incorporating in your program a plan for the effective control of conditions that seriously affect the interests of every member of this community,—consumer and honest dealer alike. We submit our proposal not as a final statement, but as a basis for consideration; and in a spirit of cooperation, we offer our further assistance and support.

Very truly yours,

BUREAU OF MUNICIPAL RESEARCH

J. D. Burks F. W. Powell

Directors

LETTER OF HON. JOHN E. REYBURN, MAYOR OF PHILADELPHIA, IN REPLY TO LETTER OF TRANSMITTAL

March 4, 1911.

BUREAU OF MUNICIPAL RESEARCH,
Philadelphia, Pa.

Gentlemen:—

Your report on weights and measures conditions in Philadelphia indicates that there is in this city a serious situation which intimately concerns every individual, every family, and every honest retail dealer. While there are state laws sufficient to prevent much of the fraudulent practice of retailers, there is no city official or department specifically charged with the duty of enforcing such laws as are on the statute books. It is evident that the public interest demands effective state regulation and inspection of weights and measures, supplemented by local regulation and inspection. Since 1883 there has been no provision for official inspection of this sort, and it is not surprising that some retailers have become indifferent, careless, or fraudulent in practice.

The evidence presented in this report makes it clear that short weights and measures is an important contributing factor in the cost of living, and that the loss falls most heavily upon those who are least able to bear it.

It is probable that city councils now have authority under state law to establish a Bureau of Weights and Measures. Inasmuch as the present legislature has before it several bills upon this subject, it seems desirable, however, to defer local action until the present legislature has finally disposed of the proposed measures. When the state has taken action, provision should be made for a bureau or division immediately under the supervision of the Mayor to protect the interests of consumers and dealers through systematic regulation and inspection of weighing and measuring apparatus, and constant control over the manner of their use.

Very truly yours,

JOHN E. REYBURN
Mayor

PREFACE

As stated in its articles of incorporation, the constructive aim of THE BUREAU OF MUNICIPAL RESEARCH is to provide the information necessary to effective coöperation between citizens and officers of government. It is suggested that the problem of inspection and regulation of weights and measures should receive attention in the consideration of any comprehensive, constructive program for the city of Philadelphia. It is the purpose of this report to present the results of an investigation of the local situation, and to submit for discussion such recommendations as have suggested themselves during the progress of this inquiry.

As is set forth in the digest which constitutes a part of this report (Appendix A), the laws at present on the statute books are fragmentary and archaic. Nevertheless an attempt has been made to provide for the protection of the community against short weights and measures so far as legal prescription is concerned. The chief fault has been the neglect to locate responsibility for the execution of these laws. In the absence of an administrative department specifically charged with the supervision of weights and measures, the facts contained in this report are submitted to the public, and by publication to those officials whose positions qualify them to understand their significance, and whose interest in providing for the needs of the community will make them most helpful in seeking and applying the remedy.

This is the first report that has been prepared for publication. Although the results of other inquiries, conducted in the course of the last two years, have been regularly

made available to persons in position of authority, the theory has been that so long as a detailed statement of facts may be useful in removing handicaps under which administrative officers labor, publication should be deferred so that each completed report may carry with it a record of accomplishment. Recognizing the fact that present conditions are a heritage for which no one person is responsible, it is thought that efforts of organized citizenship should be so directed as to aid in constructive work and to stand behind those who are seeking to improve the conduct of municipal affairs. In other words, the assumption is that citizens and officers are jointly responsible for providing the means whereby those charged with the exercise of governmental powers may become efficient in the discharge of their duties.

BUREAU OF MUNICIPAL RESEARCH

CONTENTS

CHAPTER		PAGE
I.	Introduction	11
	1. The state standards of weights and measures and what became of them	11
	2. Purpose and scope of this inquiry	12
	3. The findings of fact	12
	4. What the subject of weights and measures means to the community	14
II.	The Reason for the Lack of Inspection of Weights and Measures in Philadelphia	18
III.	The Local Situation	21
	1. Coal	23
	2. Groceries and provisions	31
	3. Bread	47
	4. Candy	48
	5. Dry goods	49
	6. Milk	50
	7. Conclusion	51
IV.	A Suggested Remedy in Legislation	53
	1. Standards and denominations	55
	2. The manner of sale of various commodities or classes of commodities	58
	3. The penalty for acts intended to defraud purchasers, whether through shortage, substitution, or misrepresentation	65
	4. The manner of inspection by administrative officials	67
	5. The marking of net contents of containers in terms of weight, measure, or numerical count	79
Appendix A.		
	Digest of laws and ordinances relating to weights and measures in Philadelphia	81
Appendix B.		
	Suggestions for national and state laws adopted by the national conference on weights and measures at the third annual conference, May 16-17, 1907	137
Appendix C.		
	Model uniform regulations for state legislation on the subject of weights and measures, adopted by the sixth annual conference on weights and measures, February 17-18, 1911	144

I

INTRODUCTION

The State Standards of Weights and Measures and What Became of Them

On February 2, 1897, the Pennsylvania state capitol building was destroyed by fire. In the basement of that building was stored a set of standard weights and measures, which had been furnished by the national government "to the end that a uniform standard of weights and measures may be established throughout the United States." This set, like those furnished to the other states, consisted of upwards of a hundred pieces. It comprised weights of brass and of silver wire, ranging from fifty pounds avoirdupois to one-ten-thousandth of an ounce troy, and from one myriagram to one milligram in the metric system; a yard and two meters; and brass capacity measures, consisting of one half-bushel, liquid measures ranging from a gallon to a half-pint, and a liter and a decaliter in the metric system. There were also three even-arm balances.

The secretary of the commonwealth is charged by statute with the care and custody of these standards, but after the destruction of the capitol, the greater part of the set passed out of the control of the state. Some of the standards were mutilated and partly destroyed; others, it is understood, were recovered; the rest passed into private hands. How this was effected, is not within the scope of this report. It is sufficient to say that until 1910 the brass weights and the capacity standards, together with one of the balances, were stored in a building which is within sight of the state capitol. They were then sold as junk to a Harrisburg brass founder, and most of them were melted and recast in other forms. THE BUREAU OF MUNICIPAL RESEARCH, on September 28, 1910, bought of this lot, the pound troy and the pound avoirdupois standard weights. At that time there were also available, the

twenty-five pound and the fifty pound weights. The pound standards have been since identified by the national bureau of standards as belonging to the state set.

Purpose and Scope of This Inquiry

Possessed of two of the fundamental standards, THE BUREAU OF MUNICIPAL RESEARCH undertook to inquire into the weights and measures situation in Philadelphia, in order to learn to what extent the purchaser of commodities at retail receives the full weight or measure for which he pays. It was first necessary to ferret out and to classify the legal provisions relating to the subject, and these were scattered through the statutes of the commonwealth and the ordinances of the city. The result was a digest (See Appendix A), which sets forth the law and singles out the public officials who are charged with its enforcement. The next step was to procure two scales and a set of standard weights and measures of Fairbanks make, which bear the official seal of the New York City bureau of weights and measures. Thus equipped, it remained only to purchase throughout the city, commodities of a sort which are in constant demand in every household, and to test the accuracy of their weight or measure by means of the sealed standards.

The Findings of Fact

Altogether, purchases were made from 494 dealers; no two purchases of the same commodity were made from any one dealer, but in a few cases several purchases of different varieties were made in a single store. Stores were visited practically at random, it being the purpose to test both large and small dealers in representative sections of the city. The results of these tests are sufficiently striking when stated in summary form. Of 200 samples of goods bought by linear measure, 116, or 58 per cent. were short; and of fifty samples of dry measure commodities, forty-

UNIV. OF
CALIFORNIA

STANDARD CAPACITY MEASURES

One gallon to one gill; one-half bushel to one quart; glass graduate and depth gage. Used in tests of commodities sold by capacity measure.

CORNELL

six, or 92 per cent. were short. Weight tests were made of groceries and provisions, and of coal of domestic size. Of 225 samples of groceries, 158, or 70.2 per cent. showed a shortage; and of ten samples of fresh meats, six, or 60 per cent. were short. Fifteen tons of coal were bought from as many dealers. Only one contained the 2240 pounds required by law, the shortage ranging from nineteen pounds to 393 pounds. Expressed relatively, the shortage on the total amount purchased was 6.1 per cent. What this means in dollars and cents cannot be determined, but it can be safely left to conjecture.

From an administrative point of view, the facts are quite as striking. There is no official in the city of Philadelphia who is specifically required by law to give attention to the subject of weights and measures, except the market clerks in the two market houses belonging to the city. In the absence of state inspection and of a set of state standards; with the law in a fragmentary and chaotic condition, obsolete in some particulars and impracticable in others; there need be no surprise that little has been done. It is true that in May 1908 the city purchased a set of standard apparatus, weights, and measures. This was first turned over to the city commissioners, but subsequently placed in the custody of the department of public safety, in order to provide means for testing, for official evidence, the weight or measure of any package which might be brought into court in a case involving the question of shortage. If anyone wishes he may take his scales, weights, and measures to City Hall, and have them compared with the standards, but there seem to be few who know of this privilege, and none who have exercised it.

In the succeeding pages an attempt will be made to show how this condition of affairs affects the consumer, or in other words the entire community. The nominal price will be considered in its relation to shortage, and from these factors the actual cost of specific commodities will be determined. Throughout the report, excess and even weight or

measure will be shown along with shortage, in order that the whole truth may be known.

In the conduct of this investigation, THE BUREAU OF MUNICIPAL RESEARCH did not attempt to pass upon the mechanical accuracy of weighing and measuring apparatus, except to the extent that is possible for any purchaser possessed of ordinary powers of observation. To have engaged technical experts would not have been difficult; but without authority to make detailed examinations of apparatus, it is apparent that no person, however expert, could have detected anything more than the most obvious defects. This being the case, it was necessary to look to some governmental agency for assistance; and this was found in the national bureau of standards, which in August 1909 conducted an extensive investigation in Philadelphia. It is possible, therefore, to bring the findings of these two investigations together in this report, and so present a true and comprehensive statement of the situation.

What the Subject of Weights and Measures Means to the Community

It will contribute to a better understanding of the subject, however, first to consider in a general way how closely the inspection of weights and measures is related to other inspection services already performed by the city and state, and how closely it is related to two subjects of acknowledged importance,—cost of living and standards of business morality.

Experience has proved that the individual citizen cannot protect himself in the purchase of food products and many other necessities of life. This is particularly true of the citizen of a large city, where conditions of living are exceedingly complex. It is in recognition of this fact that there have been established in Philadelphia and in other large cities, systems of inspection of milk and of meat. Some cities are enlarging their inspection services to include all commodities prepared or offered for sale as food.

In Pennsylvania, the state department of health, the state livestock sanitary board, and the dairy and food division of the state department of agriculture are actively concerned with the problem of protecting the health and lives of the people by looking to the quality of food.

But there is need also to see to it that the quantity as well as the quality of commodities be insured. The states of Massachusetts, Rhode Island, New York, and Kansas, the District of Columbia, and the cities of Boston, New York, Rochester, Newark, Baltimore, Detroit, Chicago, Milwaukee, Minneapolis, St. Louis, and Denver have inaugurated systems of inspection of weights and measures. Vermont, Washington, and Oregon have recently enacted laws on the subject; and bills are to be considered by the legislatures of New Jersey, Illinois, Wisconsin, Oklahoma, and California during the present year. Pittsburgh has recently passed an ordinance, but has not yet begun the active work of inspection. This is evidence that the importance of the subject is being widely recognized. Weights and measures enter into practically every business transaction; and in the absence of an effective inspection service, a premium is put upon dishonesty. Cheating by short weights and measures has long been recognized as a criminal offence at the common law, but this of itself has not served to protect the interest of the purchaser. It would seem almost as if purchasers, alert to the slight possibility of receiving short change, rather expect to receive short weight or measure as a matter of course. At all events, they seldom look at the scales or measures when they buy, or attempt to test their commodities in their homes. Few families possess the accurate scales and measures necessary to intelligent marketing. In fact, unintelligent marketing is one of the great causes of short weights and measures. The desire to buy at the cheapest price, and the disposition to object to any increase in retail prices to correspond to increases in wholesale prices, puts a temptation in the way of the retail dealer, who naturally wishes to keep his trade and at a profit. The chief

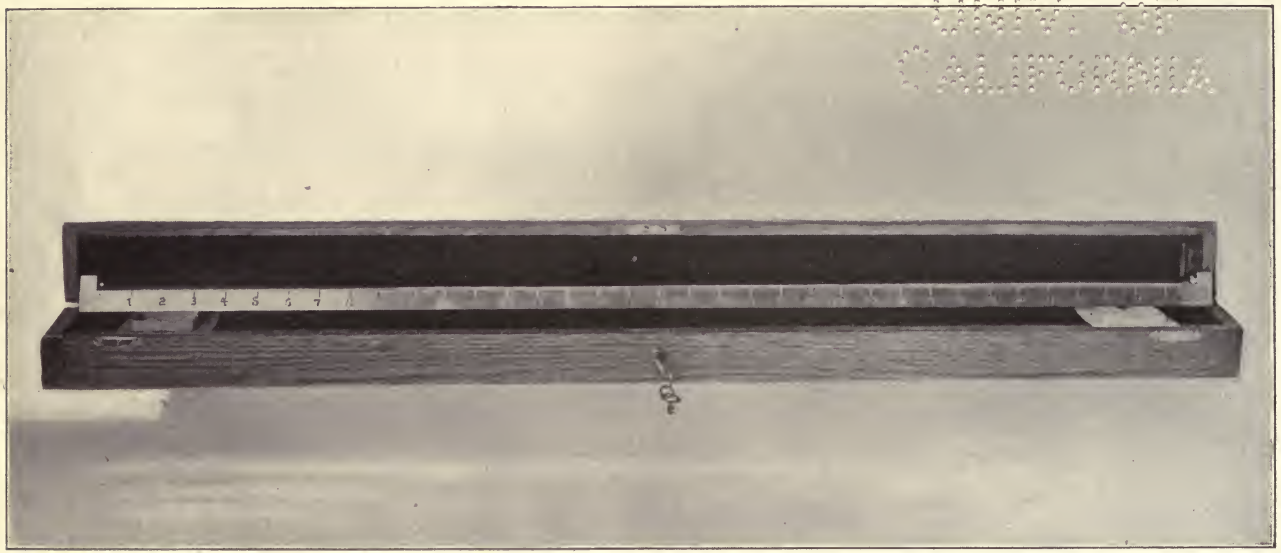
29476—2

sufferers are the poor, who purchase frequently and in small quantities; for a slight shortage means proportionately more on a small purchase. It is true that in most instances the absolute loss is not great, but for a whole city over a period of years the aggregate loss is necessarily enormous. Furthermore, it is unnecessary. Some offences must always be expected, however comprehensive the law or efficient the inspection, but experience shows that they can be kept at a minimum only by means of an active body of inspectors.

It has been stated upon competent authority that from the point of view of the dealer, short weights and measures are due to three causes: ignorance, negligence, and intent; and further, that 95 per cent. is due to either ignorance or negligence. It is submitted, however, that ignorance or negligence which results in loss to an innocent and unprotected purchaser bears a close resemblance to dishonesty.

But admitting as we do that the average retail dealer is honest, it is a matter of public concern that he be protected from the sharp practices of competitors, and from "trade customs" [1] which permit the manufacturer and the wholesaler to include the weight of the container in the billed weight of the commodity. Few retail dealers have any technical knowledge of scales, and some have scales which favor the customer and so cause them a loss on every sale. There have been cases in which business houses have lost large amounts because their own scales, used to weigh incoming materials, have favored the person from whom they bought. For the dealer who is susceptible to temptation or positively inclined to dishonesty, there are unscrupulous manufacturers of scales, who are willing to show him how to increase his profits by adjusting a screw or altering a spring or a beam, or to include the weight of the wrap-

[1] "The manner of sale of commodities is supposedly regulated by the flexible term 'custom of trade.' Custom of trade should and does mean the custom of the majority of honest and intelligent tradesmen. Such custom should be respected and legalized for their protection. The dealer, large or small, who uses the term as a cloak for dishonest practice should not benefit to the detriment of the majority of his honest competitors. For these reasons the manner of sale of certain commodities should be established by law."—Report of the New York State Superintendent of Weights and Measures, Jan. 16, 1911: 11.


UNIV. OF
CALIFORNIA

A Standard Yard Measure

The distance between the stops is precisely that of the government standard yard. Used in dry goods tests.

Stanford

ping paper or other container in the weight of the commodity without attracting the attention of the purchaser. But here too, it must be said that most manufacturers of scales are honest, and furthermore, that many of them are most ardent advocates of public regulation and inspection of weights and measures. The second-hand metal dealers should not be overlooked in this connection. As inspection becomes more strict in any city or state, or as regulations bar out certain types of scales, large quantities of scales are discarded in anticipation of the coming of an inspector, but they are not destroyed; they are sent out of the jurisdiction and distributed in other cities and states where their use is still tolerated. New Jersey has become actively interested; New York has excellent laws and effective state supervision; and throughout the state of Ohio there is more or less activity. The application to Philadelphia and to Pennsylvania is apparent.

II

THE REASON FOR THE LACK OF INSPECTION OF WEIGHTS AND MEASURES IN PHILADELPHIA

The public in Philadelphia is generally uninformed as to the weights and measures situation in this city, where there has been no inspection since 1883, when a law was passed repealing all provisions for the appointment of state sealers (8 Mar., 1883, P. L. 6.), thus making ineffective a large part of the legislation relating to the subject. This was done partly because of the sealers' practice of charging excessive and illegal fees, and partly because of a mistaken idea of a reform state administration. In the message advising this action, however, Governor Pattison did not propose that the work of inspection should be abandoned. He objected to the sealers because their petty frauds upon the dealers had made them obnoxious to the people, and because he thought that their duties might be performed by the police officers without extra cost to the city. "They affect matters purely of police regulation," said he, "and, in cities like Philadelphia and Pittsburgh, with hundreds of policemen, the duties could readily be performed by those officers without cost to the people" (Senate Journal, 1883: 241.) It has not required the twenty-eight years since that message was written to demonstrate the fact that although the inspection of weights and measures is a police function, it requires for its effective performance, a separately organized body of technically trained men, such as are engaged in the work of boiler inspection, building inspection, or suppression of truancy. An attempt was made in 1895 to reestablish a system of inspection in cities of the first and second classes (26 June, 1895, P. L. 386.), but the law was declared unconstitutional upon technical grounds (Commonwealth v. Brown, 7 Dauphin County Reporter, 235.) Bills have been since introduced in the state legislature, but

largely because of the mistake of attempting to adopt the archaic and obnoxious fee system, no law has been enacted. Cities of the second class (7 Mar., 1901, art. 19, §3, cl. 28, P. L. 40, 44.) and cities of the third class (23 May, 1889, art. 5, §3, cl. 31, P. L. 286, 292.) have charter authority to enact ordinances "to regulate the weighing and measuring of every commodity sold in the city, in all cases not otherwise provided by law; to provide for and regulate the inspection and weighing of hay, grain, and coal, and the measuring of wood and fuel, to be used in the city, and to designate the place or places of the same; and to regulate and prescribe the place or places for exposing for sale hay, coal and wood, and to demand and receive reasonable fees for inspection, weighing and measuring, as aforesaid, and for the regulation and stamping of weights and measures." And boroughs are similarly authorized "to regulate annually the scales, weights, and measures within the borough, according to the standard of the commonwealth" (3 Apr., 1851, §2, cl. 12, P. L. 321.) There is, however, no similar provision in the laws applying to Philadelphia as the only city of the first class. This is not without its advantages; for in the absence of a body of inspectors already intrenched in office, and with no established procedure with its defenders ready to offer objections to suggested changes, proposed weights and measures legislation for Philadelphia can be considered solely on its merits.

It is submitted that under existing statutes, the city of Philadelphia has power to establish a bureau of weights and measures. Section 16 of the act of March 11, 1789, entitled "An act to incorporate the city of Philadelphia" provides that:

> The mayor, . . . and . . . councilmen, . . . shall have full power and authority to make, ordain, constitute and establish, such and so many laws, ordinances, regulations and constitutions, (provided the same shall not be repugnant to the laws and constitution of this commonwealth,) as shall be necessary or convenient for the government and welfare of the city, and the same to enforce,

put in use, and execution, by the proper officers, and at their pleasure to revoke, alter and make anew, as occasion may require (2 Smith's Laws, 467. See also 1 June, 1885, art. 2, §1, P. L. 39, and art. 16, P. L. 54.)

That the general power so conferred upon the city is sufficient to authorize the creation of a bureau of weights and measures, would seem to be established beyond dispute by O'Maley v. Borough of Freeport[1] (96 Pa., 24.) and Philadelphia v. Brabender (201 Pa., 574.)

The subject, however, undoubtedly one of the most important within the scope of municipal activity, is too large to consider from the standpoint of a single city. There are many laws on the statute books which do not fit present conditions, and some of which were never practicable; and there are many conditions demanding remedy for which there is no legal provision. Furthermore, there is throughout the state, a growing recognition of the need for a uniform and comprehensive law or series of laws which will effectually promote honest weights and measures in every city and borough.

[1] "1. Where an act incorporating a borough confers upon the authorities all powers necessary 'for the well ordering and better government of said borough,' the power conferred is sufficiently comprehensive to cover every regulation necessary for the government of the borough and protection of its citizens, and the only limitation of this power is that it must be exercised in a reasonable, lawful and constitutional manner. If these limitations are not transgressed courts cannot interfere with the ordinances of such a municipality, for the burgess and council will be left to a reasonable discretion, and, for the proper and wholesome exercise thereof they are accountable, not to the courts, but to the people they represent.

"2. An ordinance of said borough requiring people to buy and sell coal by weights and measures is reasonable, lawful and constitutional.

"3. An ordinance of said borough requiring the payment of five cents per load for weighing coal bought and sold and the use of the borough scales, is not in the nature of a tax and is within the charter powers of the borough." —Syllabus.

Sealers' Trip Scales Used in Weight Tests

Extremely accurate and sensitive to one-sixty-fourth of an ounce.

Digitized by Google

III

THE LOCAL SITUATION[1]

The working equipment used in the tests which are reported in this chapter consisted of the following standards and apparatus: a set of brass dry capacity measures ranging from one half-bushel to one quart; a set of brass liquid capacity measures ranging from one gallon to one half-pint; a brass yard; sealers' agate-bearing even-arm trip scales, sensitive to one sixty-fourth of an ounce, with brass weights ranging from eight pounds to one-sixteenth of an ounce; a platform scale of 650 pounds capacity, graduated to one-fourth of a pound; a Chatillon spring-balance; a Gurley cubic-inch glass graduate; a Starrett depth gage of steel, graduated in thirty-seconds and sixty-fourths of an inch; and a Starrett pocket level.

The procedure, which was as uniform as practicable throughout the investigation, followed along three main steps: (1) purchase, (2) re-weighing or re-measuring, and (3) recording the facts. As soon as a commodity or article was purchased, a tag was attached for identification and for the full record of the test. This tag bore a printed form, providing for: the name of the commodity or article; the quantity purchased; the price; the name, address, and business of the dealer; the name of the investigator making the purchase, and the date and hour of the purchase; the initials of the investigator who conducted the re-weighing or re-measuring, with the date and hour and the result of the re-weighing or re-measuring; and the initials of another investigator who checked this result, together with the corresponding details. There was also provision for the recording of the type and make of scales, with the reading both before and after the purchase was put on the pan; the

[1]The tests upon which this chapter is based were conducted under the immediate supervision of Mr. Paul E. Taylor.

type of capacity measure, with particulars as to whether the commodity was seen to be scant, level, well rounded, or heaping; and the type of linear measure, with particulars as to whether the dealer was seen to give scant, even, or liberal measure. (See illustrations on opposite page.)

In the case of coal tests, the method was necessarily different. When coal was purchased in ton lots, it was removed from the wagon and placed in a large can which would hold about one-fourth of a ton. Whenever possible the coal was shot directly into the can, and if the coal had to be carried, it was emptied into this can bag by bag. The coal was weighed on the platform scales by an investigator, and the result verified by another investigator, or by the driver himself. After a deduction had been made to represent the tare weight of the can, the result was recorded both upon the return part of the delivery slip, when one was received, and upon the memorandum of the investigator. From this memorandum was prepared a full report of the test. When coal was purchased by the bucket, the bucket was weighed when full and when empty, on a spring balance, and a memorandum and report prepared as above described. The spring balance was not sealed, but it was tested by means of the sealed weights.

Three investigators were regularly engaged in the investigation; holding interviews, making purchases, and conducting tests. Some of the tests were checked by other members of the staff under proper supervision.

The national bureau of standards report, the essential parts of which are reproduced in this chapter, was prepared by two experts who conducted an independent investigation in Philadelphia in August, 1909. These men have made investigations of the weights and measures conditions in cities in all parts of the country, as regular members of the staff of that governmental bureau to which scientists, engineers, and manufacturers of instruments of precision, look for the final word concerning matters of physical measure-

SAMPLE TAGS

Showing record of tests. Similar records were made for each of the test purchases.

Princeton

ment. Their findings cannot be successfully challenged, therefore, whether upon grounds of prejudice, improper motive, sensationalism, or incompetency.

Coal

It was not necessary to make tests in order to determine that the condition of the retail coal trade is most unsatisfactory both to the consumer and to the honest dealer. Interviews with dealers uniformly brought out the information that competition is keen, that prices cannot be maintained, and that profits are so low as to make the giving of short weight only too general. Few of the dealers interviewed were disposed to talk freely, but one volunteered the statement that if a customer wanted a ton of coal at $6, he would take the order, but he would very likely give short weight. The Philadelphia coal exchange recommends schedules of retail prices, but these prices are not generally followed, even by its own members. The customary prices are fifty cents below those recommended for coal of domestic size, and twenty-five cents below for pea coal, and some dealers sell at twenty-five cents below the customary price. Throughout the retail coal trade it is understood that certain dealers give short weight; for when it is known what facilities are available for handling the coal in bulk and what it costs at the siding or wharf, it is only natural to conclude that a dealer who cuts rates unduly must either lose money or deliver short weight.

In addition to the large dealers, most of whom have yards with pockets with direct access to rail or water transportation, there are others who buy from the large dealers and sell by the load. They are called "loaders," for they sell by the load and not by the ton, in an attempt to protect themselves from the possibility of prosecution for giving short weight. They will buy from the yards a load containing about a short ton of 2000 pounds, or even a smaller quantity, and the person who receives the load is left to assume that he gets a full ton. Their business is principally

with the poor, who pay at the rate of $2 down, and the balance in installments of a dollar a week. As might be expected, collection of the last two installments is difficult and uncertain. It is not surprising, under these circumstances, that the "loaders" are generally suspected of sharp practices; but while an attempt has been made within the coal exchange to put a stop to the sale of coal to "loaders" or to peddlers in less than half-ton loads,[1] it has not succeeded because of opposition of some of the members.

Peddlers buy from the yards in small lots ranging from one hundred pounds to a short ton. They often buy pea coal, which is $2 a ton cheaper at the yards, and mix stove coal or nut coal with pea coal, and sell the product at eight cents a bucket. Shamokin coal runs thirty-two bushels to the ton, and Lehigh coal, twenty-eight. Peddlers, therefore, sometimes sell Shamokin coal, which resembles Lehigh coal closely enough to deceive the purchaser, and so add to their profits. This also applies to the small stores which sell coal by the bucket. As peddlers pay cash for their coal at the yards, their trade is not unwelcome to many of the large dealers; but some yards will sell only to peddlers whom they believe to be honest, and others will not sell to any peddlers or in small lots.

It is not the practice of "loaders" to give delivery slips when delivering coal, and even among the large dealers the practice is not universal. Some dealers prepare a slip in duplicate, keeping one copy and sending the other to the purchaser who signs it and returns it by the driver. Others send two copies with each load, one to be retained by the purchaser, and the other to be signed and returned. These slips, however, have "TON (2240 lbs.)" printed on them, with a blank space for the number of tons, and the purchaser has no information as to gross or tare weights.

[1] "Resolved: Under no circumstances will any member of the Philadelphia Coal Exchange sell or deliver to chute wagons, operated by non-members, a quantity of anthracite coal, less than a gross ton (2240 lbs.), a half-ton (1120 lbs.), or multiples thereof, It being the purpose to prevent the selling of short weight to customers."

Apparatus Used in Coal Tests

Scales officially sealed by the Bureau of Weights and Measures of New York City. Iron can holds about one-quarter of a ton.

UNIV. OF
CALIFORNIA

It would have been possible, after a series of interviews, to prepare a list of dealers suspected of giving short weight, and to make test purchases with this list as a guide. This plan was not adopted; but instead, purchases were made throughout the city, from both large dealers and small dealers, and in most instances from dealers who are generally believed to be honest. It was originally planned to buy coal from several of the dealers supplying the congested sections of the city, and a house in the neighborhood of Thirteenth and Christian streets was leased. But after two tests, the suspicion of a nearby dealer was aroused, and it was decided to stop. Arrangements were then made with intending purchasers to allow their coal to be re-weighed upon delivery. In many instances, the purchaser chose the dealer from whom he had been buying his coal; in others, the order was placed with a dealer chosen by the investigators. Altogether, fifteen tests were made, with the result shown in Table 1, and graphically set forth in Exhibit I.

Table 1, Showing Excess and Shortage Received in Ten Purchases of Coal of Household Size

Test	Kind of Coal	Quantity Ordered and Paid For	Quantity Delivered	Loss to Dealer		Loss to Customer	
				Pounds	Per cent	Pounds	Per cent
1	Stove	2240 lbs.	1965 lbs.			275	12.2
2	Stove	2240 "	2209 "			31	1.3
3	Stove	2240 "	1847 "			393	17.5
4	Pea	2240 "	2010 "			230	10.2
5	Chestnut	2240 "	2102 "			138	6.1
6	Stove	2240 "	1955 "			285	12.7
7	Chestnut	2240 "	2037 "			203	9.0
8	Stove	2240 "	2109 "			131	5.8
9	Pea	2240 "	2079 "			161	7.1
10	Chestnut	2240 "	2174 "			66	2.9
11	Chestnut	2240 "	2173 "			67	2.9
12	Egg		559 "	Driver	refused to	weigh	bal. of load
13	Egg	2240 "	2221 "			19	.8
14	Egg	2240 "	2178 "			62	2.7
15	Egg	2240 "	2381 "	141	6.2		

Tests are given in the order in which they were made. It will be noticed that, with the exception of Test 2, there was a consistent shortage in excess of the variation of forty pounds allowed by law until Test 12 was made. This test failed; but in one sense it was most successful. The particulars are of sufficient importance to present in some detail.

On January 23 an order was placed with a firm which charges full prices for its coal, and gives trading stamps. After one draft of 559 pounds had been weighed on January 24, the driver refused to deliver the rest of the load, and maintained that the coal had been weighed at the yard and that the purchaser had no right whatsoever to weigh it again. The next day the firm sent to the person in whose name the coal had been ordered, a letter as follows:

"We are extremely sorry that our driver took the position that he did at your house when he found that you were weighing the ton of coal that we sent there. Of course we have no objections to your weighing coal that we deliver to you any time that you see fit to do so, but our driver thinking that the weight of the coal would not come out correct the way you were weighing it on small scales and in small sections took it upon himself to protect us in the matter. Of course we agree with our driver and have every reason to believe that weighing out a ton of coal the way you were doing it on small scales and in a number of drafts that the result would not be the same as you would obtain if it were weighed on scales similar to ours where it was weighed before being sent to you. This is to advise that you are at perfect liberty to weigh coal that we send to you at any time but we will not be responsible for any difference in the weight over or short if weighed in the manner selected by you—on small scales in a number of drafts. However if you wish to do so again at any time we would be very much pleased to have our representative present when you do so to satisfy ourselves that we are correct in the position that we take, and it would be to the

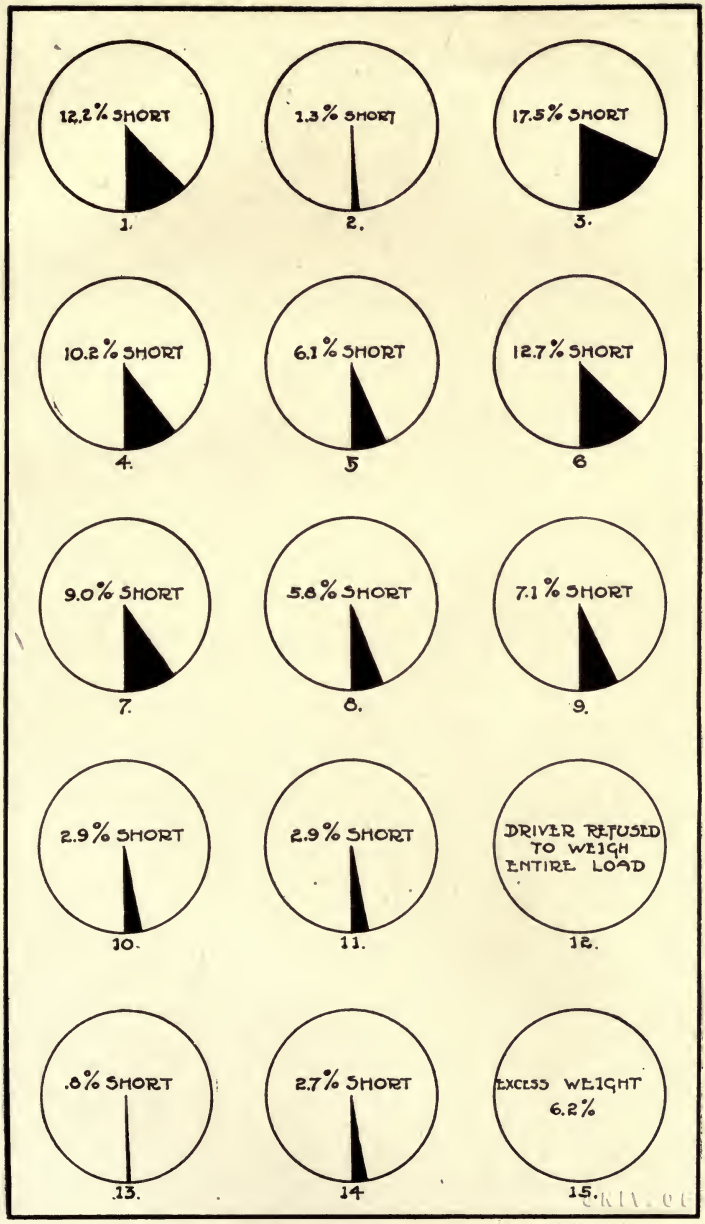


EXHIBIT 1

Showing excess and shortage in weight in fifteen one-ton purchases of coal.

interest of both of us. We acknowledge receipt of your check for $1.75 in payment of the quarter of a ton left by our driver with you, and enclosed herewith please find receipt."

Here is a new mathematical axiom; that the whole is greater than the sum of its parts. It may be questioned whether scales which will weigh a fourth of a ton at a draft can be accurately called "small", but there can be no question that if any dealer should agree to have a representative present to witness the re-weighing of a load of his coal, there would be no shortage in his delivery. The law upon the matter of re-weighing is explicit. It reads:

> Two thousand two hundred and forty pounds avoirdupois should make and constitute a legal ton of anthracite coal throughout this commonwealth in all transactions between retail coal dealers and their customers (Appendix A, §44.)

It provides, however, "that in all cases forty pounds shall be allowed for the variation in scales" (Appendix A, §45.) Further comment would be superfluous. That the attitude shown by this letter is not representative is apparent from another letter, which relates to Test 8. It is as follows:

"Replying to your favor of the 2nd inst. I would say that we believe you weighed the Coal accurately and that the mistake was, therefore, ours. As explained to you personally this mistake could have happened in several ways but to my mind it either happened by our weigher mistaking a team and fixing the light or team-weight too low on the upper beam, or that the driver did not deliver the right number of bags to you. When I talked to you last night I was under the impression that the mistake was the first of these two, but in thinking it over I cannot see how forty-five (45) bags which you say he had on, would not weigh at least 4500 lbs.

"Our bags are carefully filled by men who do nothing but fill the bags, and if the Coal was not weighed I would

feel sure that forty-five bags would contain this amount and surely twenty-three bags, which you say the driver said he delivered you, would contain 2240 lbs. Did you count the bags yourself as they were put in.

"The Coal was delivered by a hired team, one of . . . 's teams, and on this day we had two hired from him. There is a variation in his wagons altho we keep no record of this except when we have the teams on, but it would be very easy for the weigh-master to mistake these two men as their wagons are exactly alike in looks, but to my mind the mistake was in the amount of Coal delivered, as I feel that he had two tons on when he left this yard.

"Our records show that the Coal delivered you was Coleraine Coal; also the other ton on the wagon was the same Coal. Coleraine Coal is as dense as any Coal mined, and as we use so much of this Coal we want to emphasize the fact of 45 bags being sufficient for two tons, so that the more I think over the matter the harder it is for me to understand where the mistake occurred unless both you and he were mistaken, as we have said before, in the number of bags.

"Of course, we do not know this driver and it is possible that he dropped a bag enroute but this does not seem reasonable to us altho their drivers have not been honest with us this winter in one instance but this was where we were unloading from a car where they allowed their friends to come over and help themselves from it.

"I am sorry to write you in such length but I feel that your intentions were entirely fair, and I want you to feel that mine are too. If I can throw any more light on the subject, or if I have not answered any questions that you would like to put to me, I trust you will not hesitate to advance them."

The accuracy of the re-weighing is here admitted, and there is evidence of real concern for the interest of the purchaser; something which does not appear in the first letter.

Tests 13, 14, and 15 were made at the house at which the driver concerned in Test 12 had refused to submit to re-weighing, and before it was learned that word had been passed about among some of the coal dealers that tests were being made at that address. The improved showing, therefore, is not surprising. Test 14 was made on coal delivered by a "loader," whose circular letter says "We still invite the public to weigh our coal and if short of 2240 lbs. net, keep the coal free of charge." The fact that there was a shortage of sixty-two pounds in his delivery would seem to indicate that this "loader" was not among those dealers who were notified that tests were being made. The firm concerned in Test 5, advertises "2240 Pounds Guaranteed. Weighed By Sworn Weighers." Test 6 was made on coal delivered by the dealer whose suspicion had led him to inquire why coal was being bought from different dealers in single ton lots and re-weighed at the house where the first two tests were made. The shortage of 285 pounds would seem to account for his active interest in the matter.[1]

When considered in relation to cost, the shortage shown in this table is significant. The nominal price of the coal purchased in Test 3 was $6.50; the actual cost was at the rate of $7.88 per ton. We are not concerned here with averages; what the average loss may mean to the average purchaser; or what that average loss means in the aggregate to a city which consumes four million tons of anthracite coal in a year. Nor are we concerned with the question of the dishonesty, carelessness, or poor organization of a business house which will deliver 1847, 1965, or even 2381 pounds of coal and call it a ton. Our interest is in the situation as these tests have shown it to be, and in seeking and applying the remedy.

Before we seek new legislation, it will be well to consider that there is already upon the statute books, the act of April 2, 1822, entitled "An act to regulate the sale of

[1] See page 25.

stone coal within the city and county of Philadelphia, and to prevent the adulteration of linseed oil" (Appendix A, §§41-2.), section 1 of which reads as follows:

> Stone coal brought from any mine situated within the state of Pennsylvania, to the city or county of Philadelphia, for sale, shall be disposed of by weight or by the bushel measure, and if by the latter, each bushel shall weigh at least eighty pounds; and so when the same is re-sold, whether by wholesale or retail, it shall in like manner be sold by weight or measure, if by the latter, the bushel shall contain at least eighty pounds, and in the same proportion for any greater or less measure.

This is one of four acts relating to the subject of weights and measures, all of which were approved on the same day. The other three have been repealed. This no doubt explains why the act in question has been so generally overlooked. Adequately enforced, this act would do much toward improving the situation. It would put a stop to the practice of "loaders" selling without regard to weight or measure, and it would put the peddlers' trade upon an honest basis.

When the act says that if coal be sold by measure, "the bushel shall contain at least eighty pounds, and in the same proportion for any greater or less measure" (Appendix A, §41.), it does not mean that a peddler or store may sell coal by the bucket of approximately eighteen pounds capacity. The law says that "Four pecks make a bushel" (Appendix A, §7.), but it does not recognize the "bucket" as an aliquot part of a bushel. When a dealer sells less than twenty pounds of coal to the bucket, he is violating the law. How generally this is done is shown by the fact that the average of ten bucket tests was found to be eighteen pounds. Two buckets contained twenty-one pounds; the others contained less than twenty, and one contained sixteen. Six contained pea coal; two, stove coal; one, chestnut coal; and the coal in the other was mixed. The price in eight instances was eight cents; and seven cents and nine cents in the others. Price bore no relation whatever to either variety or weight.

If a consumer who buys coal by the bucket should receive the full twenty pounds of Lehigh coal of nut or stove size, for eight cents, he would be paying at the rate of $8.96 per ton for coal which costs the peddler $6.05 per ton, or less than five and a half cents per peck. It is not pertinent to this discussion to inquire whether peddlers could afford to buy Lehigh coal in stove or nut sizes and sell at a fair profit at eight cents per peck of twenty pounds. To do so would be to ignore the essential fact that much of the Lehigh coal sold in buckets is pea coal, which costs the peddler $4.03 per ton, or about three and a half cents per peck; also the fact that much of the coal sold by the bucket is of the free-burning varieties, which run four bushels to the ton more than Lehigh. The bucket coal trade, therefore, presents a problem of both short weight and adulteration. For the former, the act of 1822 is adequate if enforced; for the latter, new legislation is necessary.

Groceries and Provisions

The purchase of groceries and provisions is a matter which confronts the housewife almost daily. For her there are small stores in the neighborhood of her home, "chain" stores and markets scattered at convenient intervals throughout the city, and large stores with extensive stock and wide delivery service. Each has its appeal, which may be convenience of access, cut-prices, variety of choice, credit, or any other characteristic which may serve to encourage trade. In their advertisements and in their personal dealings with customers, dealers seek to present these inducements as effectively as possible. In the former, price and quality are the dominant notes;[1] in the latter, the appeal varies, but it is not infrequently concerned with weight or measure. The salesman may heap his measure,

[1]A significant exception from a Philadelphia newspaper:

"The Question of Honest Weights and Measures

"If you owe us a dollar, we will exact it—in good, lawful money, not sweated coin or Mexican dollar. We will accept only the equivalent of a hundred American cents.

"You should exact from stores the same sort of fulness as to weights and measures—36 inches to a yard; 16 ounces to the pound; legal quarts and pints. That's all there is to it—yet this straight-forward method isn't usual—there's no

29476—3

and even give a handful in excess of a well-filled measure; or his scales may show excess weight while he charges only for even weight. But the measure itself may be too small, or it may be one which was intended for a different class of commodity; and the scales which show excess weight may be set against the customer. When full weight or measure is given when the apparatus itself is faulty, the result is unfair competition, for the purchaser is deceived; when short weight or measure is given, whether through carelessness or design, the result is loss to the purchaser.

In an attempt to ascertain the accuracy with which groceries and provisions are being dealt out to the people of Philadelphia, several hundred test purchases have been made, with the result shown in Tables 2, 3, 4, and 5, and graphically represented in Exhibits 2, 2 A, 3, 3 A, 4, and 5.

Table 2, Showing Result in 225 One-pound Purchases of Groceries and Provisions

Commodity	Total Purchases	Purchases Reweighed Showed					
		Correct Weight		Loss to Dealer		Loss to Customer	
		No.	P.Cent	No.	P.Cent	No.	P.Cent
Sugar	100	5	5	31	31	64	64
Rice	60	3	5	12	20	45	75
Beans	25	..	..	3	12	22	88
Peanuts	10	..	..	6	60	4	40
Fruits	10	1	10	4	40	5	50
Bacon	10	..	..	2	20	8	80
Butter (Print) ..	10	..	..	..	..	10	100
Total	225	9	4	58	25.8	158	70.2

adequate law to make packges hold supposed weights and measures—and the careless housewife loses ten per cent. or more in weights of various commodities if she buys at careless stores.

"If you buy a three, five or ten-pound pail of lard at . . . you get that number of real pounds of lard. You do not get it generally. If lard is sold in cans, it is for convenience (and not your convenience) so you must pay lard-price for tin can. Catch the idea?

"We believe all package goods will come to be of known net weights—we are making it possible to supply almost every need without chance of fooling yourself.

". . . Pure Foods—in full weights—cost you no more than questionable kinds. We believe the average prices at . . . the year through will show a saving over usual prices."

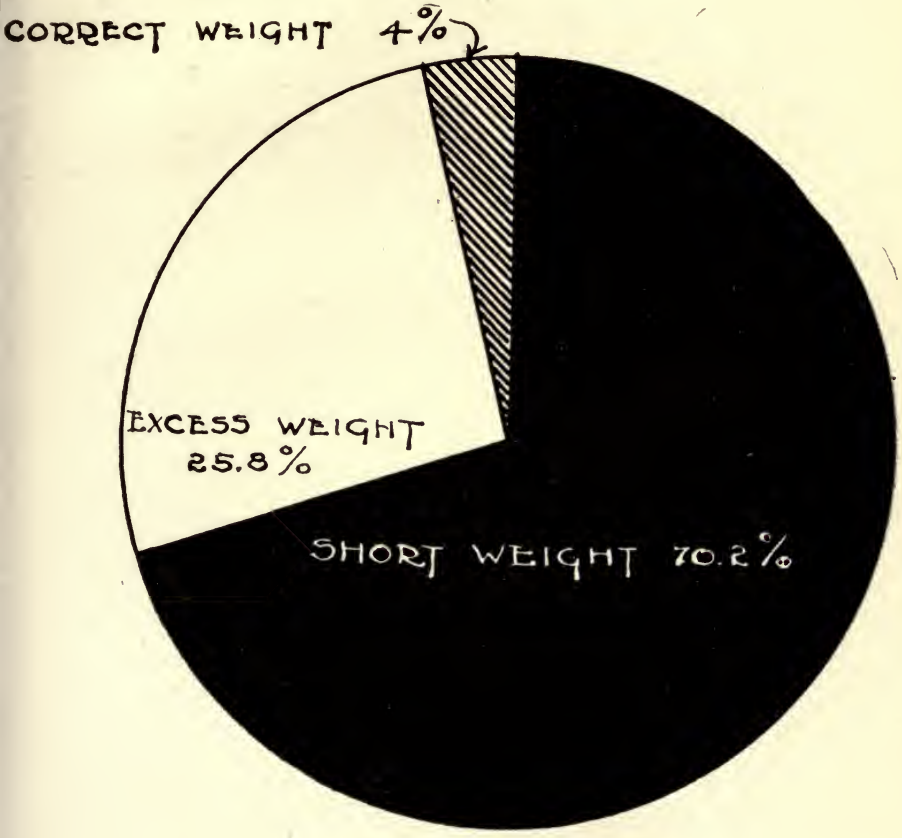


EXHIBIT 2

Showing excess, correct, and short weight in 225 one-pound purchases of groceries and provisions.

Table 2 shows in summary form the result of purchases of selected commodities sold generally by grocers. Only nine purchases showed correct weight. All of the purchases of butter were short; the average being about one-half ounce. Eight out of ten purchases of bacon, another expensive commodity, were short; and in this case the shortage was nearly two ounces. Sugar is cheap, and the retailer makes little or nothing from handling it, because purchasers have come somehow to judge of the level of prices in a grocery store by the price charged for sugar. Exhibit 2 presents in graphic form the results shown in Table 2. Exhibit 2 A shows in a similar manner the distribution of excess and shortage. Here it appears that the excess weight ranged from one-sixteenth of an ounce to one and three-fourths ounces, while the shortage ranged from one-sixteenth of an ounce to three and a half ounces. The lengths of the vertical columns represent, for each fraction of an ounce, the relative number of purchases showing either excess or shortage. Thus about 2 per cent. of the purchases showed an excess of three-sixteenths of an ounce, while 8 per cent. showed a shortage of the same amount.

Table 3, Showing Result in Fifty One-quart Purchases of Dry Commodities

Commodity	Total Purchases	Remeasuring Showed		General Average of Shortage (Per Cent)
		Full Measure	Short Measure	
Beans	35	1	34	15.3
Cranberries	10	2	8	9.3
Peanuts	5	1	4	8.1
Total	50	4	46	13.3

The record for beans as shown in Table 2 should be considered with reference to the similar record in Table 3. The comparison will show an average shortage of 6.1 per

cent. when beans are purchased by weight, but 15.3 per cent. when they are purchased by measure. The reason for this marked difference is that beans, which are dry commodities, are almost universally sold by the liquid quart measure, which holds about 14 per cent. less than the dry quart. Of the ten purchases of cranberries, two were full measure. With one exception, the cranberries were measured in liquid quart measures. This was a significant exception; because out of fifty purchases of dry commodities shown in Table 3, a single one was measured in a dry quart measure, although at wholesale these commodities are sold either by weight or by dry measure. Upon this point the ordinance of November 17, 1857 declares:

> It shall not be lawful for any person or persons to sell within the limits of the . . . city any . . . fruits or vegetables requiring measurement, by any other measure than the bushel and its divisions, . . . and for each and every sale hereafter made by the basket, or by any other measure or measures than those herein designated, the person or persons making the same shall forfeit and pay the sum of five dollars (Appendix A, §52.)

The percentage relations of the results shown in Table 3 are represented graphically in Exhibits 3 and 3 A. Examination of Exhibit 3 A will show that over half of the purchases were short more than 14 per cent. Two per cent. of the purchases were 32.8 per cent. short.

There is in general use a type of double-end dry measure, the larger compartment of which holds a half-peck, and the smaller, two quarts. (See illustration facing page 40.) These measures are made of soft wood, and their rims are not protected. When new they are of full capacity, but there is nothing to prevent the cutting down of either end to diminish the capacity by any amount desired.

Throughout the city there is a large number of cheap scales and capacity measures. Most of the scales upon which test purchases were weighed were without the name

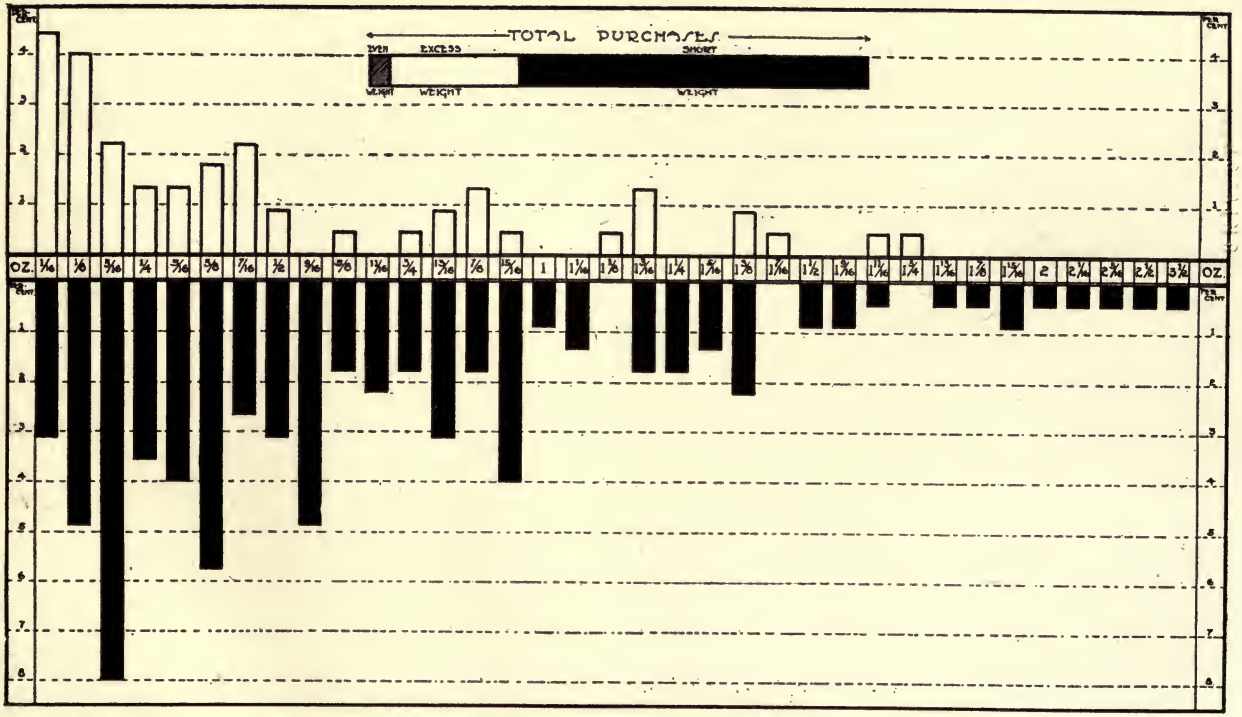


EXHIBIT 2a

Showing distribution of excess and shortage in 225 purchases of groceries and provisions.

of the manufacturer. Such scales were found most frequently in the smaller stores, but tests uniformly showed that the question of honest weights and measures is one which concerns large dealers quite as much as small dealers. One spring balance was found with the pointer on the face of the dial showing three ounces "fast", or against the customer without anything on the pan, and others showed two and a half ounces, two ounces, and one ounce. One computing scale was found three and a half ounces against the customer.

Counter scales were found with various objects,—iron nails, iron nuts, iron links, iron wire, pieces of lead, pieces of tin, pieces of wood—fastened to the prongs of the fork or attached to the customer's end of the hanger. Two had can-openers fastened in the fork. In many instances paper, twine, or cloth was wound or tied about the prongs of forks. Whether this was done to conceal some heavier substance could not be determined by the investigator in the absence of authority to make a detailed examination. Spring balances were found which had a potato stuck on the hook below the dial. Hooks were frequently used for the hanging of tags and memorandum slips. In one instance there was half of a refrigerator door-hinge upon the hook. All these objects were in full view. In the absence of official inspection, this is not surprising. The average customer knows little or nothing of scales, or of their proper use. No attempt was made to discover the less obvious defects, this having been already done by the experts of the national bureau of standards. Discussing the conditions in that portion of the city lying south of South street from Twelfth street to the Delaware river, the official report of these inspectors reads:

Here, conditions are practically indescribable. So little apparatus is correct that practically no standard of weights and measures exists, and although the common terms of "pound", "bushel", etc. are still in use they mean practically nothing as the variation of the apparatus amounts in many cases to 25% or more. So

little apparatus is correct that it is the exception, rather than the rule, to find things in proper condition. Scales, both of the spring and platform types, are almost universally fast from 2 to 5 or more ounces. That this is not the result of general ignorance is proved by the way in which the apparatus is manipulated. For instance even-arm platform scales practically never have the pans empty when not in use. In 90% of the cases some weight is placed upon the weight platforms so that an observer cannot determine whether the scale is in balance without removing these weights. When these were removed by the inspectors the scoop side was in almost every case heavy by one to five ounces, and this amount was gained by the manipulator on every sale made. Moreover, a type of cheap, even-arm balance is in general use which is one or more ounces incorrect when the weights are placed upon the extreme edges of the platform. That the dealers are aware of this physical imperfection and use it to defraud the public is indicated by the fact that numerous cases of weighings came under the observation of the inspectors, when weights were so placed on the extreme edges that this short weight was added to the original error of the balance. A third additive factor to the total shortage in weight delivered is caused by the fact that the weights used are themselves light. That this last factor is, in itself, considerable may be drawn from a few instances. 4-lb. weights were found which were respectively 2 ozs., 1-¼ ozs., and 3-⅛ ozs. light. (This last had a hole drilled in bottom which pierced through top of weight). 2-lb. weights were found, 1-oz., 1-⅜ ozs., 1-¼ ozs., and 13/16 oz light; one pound weights were found 1-⅝, 7/16, ¾ and 1-⅜ ounces light, respectively. (This last was hastily hidden by the merchant when tests began, but was recovered and tested). 8-oz. weights were found ¾, 11/16, 7/16, ½ of an ounce light, etc. This one factor is then in a large number of cases from 7 to 10%. The combination of the three sources of shortage mentioned is very large amounting in many cases to perhaps 30 to 35%.

Here, also, were found very many dry measures made of wood having a stave removed or ends sawed short. About 20 of these, approximately 25% short were counted on one portion of a street in this section. When your inspectors were about to measure one of the above it was snatched away by the dealer, but was recovered and measured. This was a double measure. The "half-peck" held 203 cu. ins.; shortage 24.2%. The "quarter-peck" held 100 cu. ins.; shortage 25.4%.

Liquid quart measures for dry commodities were universally used, no others being in evidence. These were sometimes so badly

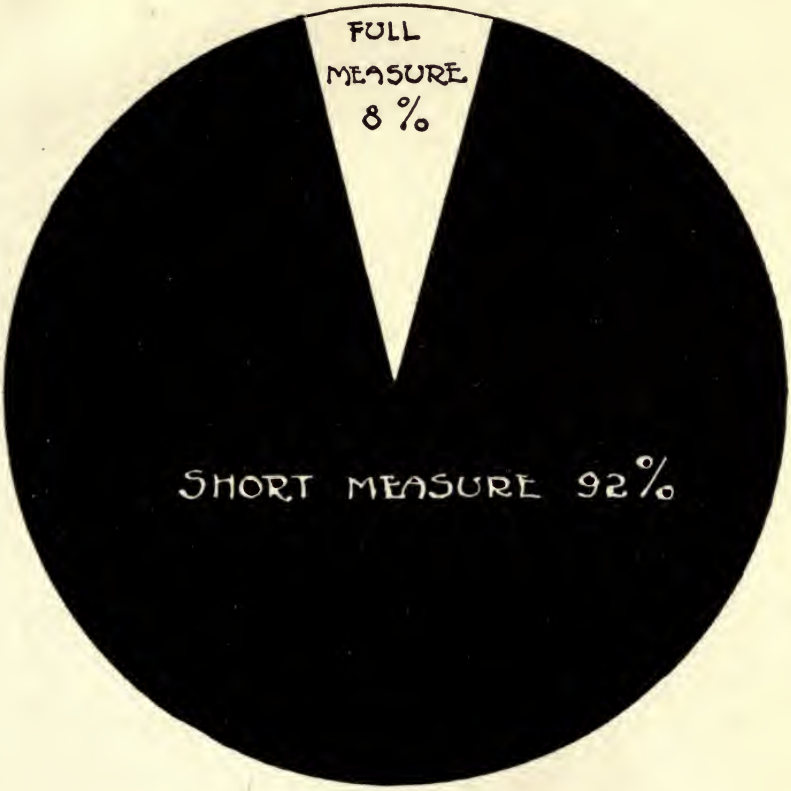


EXHIBIT 3

Showing full and short measure in fifty one-quart purchases of dry commodities.

UNIV. OF
CALIFORNIA

battered as to make them useless as "measures." In one case, for instance, in addition to dents a pint measure had a false bottom. This measure held 11-¾ ozs. of dried beans when full, a shortage of 21%, or at the rate of 47 lbs. to the bushel, instead of 60 lbs., the legal weight.

Spring scales were often found 3 and 4 ounces fast, while many were balanced without the scoop, which was never placed on the spring except when weighing was being done. When a commodity is placed in the scoop and this is put on the scale, the scoop weighing 3 or 4 ozs. is weighed with the commodity and is charged for, although it is never delivered with the goods.

In short, in this section every variety of fraud by means of which it is possible to deliver short weight and measure to ignorant people was found in use in 75% or more of the places of business. Yet scattered throughout this section are respectable stores where full weight and measure is being given or only slight shortages exist. These stores, of necessity, charge slightly more than the others and have only the more intelligent class of trade. The very poor and ignorant patronize the stores where commodities apparently can be bought the cheapest and as a result the people who can least afford to lose are paying higher prices. To protect these classes is a function of prime importance, and until this is done a very great injustice will be perpetrated against those, who, on account of poverty and ignorance, cannot protect themselves.

The conditions in the other parts of the city where merchants cater to a representative class of trade, were found to be similar. The report reads:

In Philadelphia, there are a very large number of "chain stores." That is, stores operated by one company from central offices, by means of managers and clerks in each store, those men being employed by the central company or corporation. One of these companies own and operate 205 stores in the city and surroundings, and several other companies operate a lesser number of stores. Since there was a very marked difference in the majority of these stores, from those stores operated by individuals, their weights and measures will be summarized separately. From our data we are able to state the following facts:

Independent Stores

Scales Inspected

Based on averaged weight of one pound.

Total No. of scales inspected	O. K. Within 3%	In Error Within 6%	Within 9%	Within 12%	More than 12%
118	45 (38%)	38 (32%)	11 (9%)	14 (12%)	10 (9%)

Weights Inspected

Total No. of weights inspected, 1-lb. or more	Within — 1%	2%	3%	4%	5%	6%	7%	8% or more
132	59 (46%)	19	8	14	2	2	1	1

8-oz. or less	Within 2%							
53	30		10	3	1	4	2	3

Probably 50% of the wooden dry measures in use were 7% or more short of standard measure. This was probably not in every case the fault of the merchant since measures somewhat short seem often to have been sold as standard measures. The resultant shortage to the customer was, however, the same. Throughout practically all these stores small dry commodities in quart lots or less are being sold in liquid measures and throughout the entire city very few quart dry measures are in evidence. Thus it will be seen that in independent stores in all sections the apparatus is in very bad shape and results in defrauding the purchaser.

To summarize, only 38% of the scales of which we have record are correct within 3% and, of these, many were being used to give less than the required amounts by means of short weights used. Incorrect (short) weights make 54% of the total of all the larger weights and about 40% of the total of the smaller weights. When it is considered that all faulty weights and measures found south of South street are not included in these figures the results are doubly significant for in these stores short weight and measures is being constantly given, although the customers are as a rule intelligent people, and notwithstanding the fact that they are paying what is considered a sufficient price for the commodities purchased. And districts, such as Germantown have not been excluded, where are apparently a fine class of stores and an exclusive class of customers.

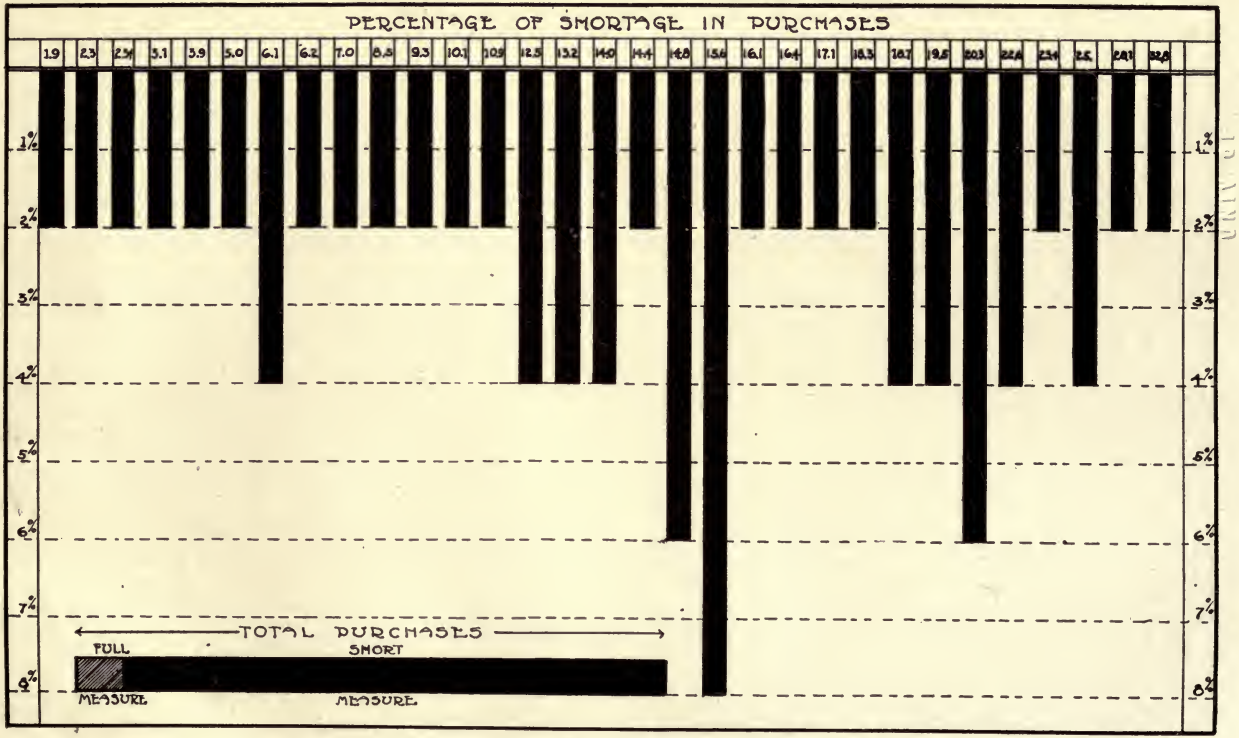


EXHIBIT 3a

Showing distribution of fifty purchases of dry commodities as to percentage of shortage.

The conditions in "chain-stores" have been listed separately as before mentioned, because an entirely different condition here exists as far as the accuracy of apparatus in use is concerned. Conditions were obtained in a number of stores of this character and have been listed below.

"Chain-Stores"

Scales Inspected

Based on average sales of one pound.

Total No. of scales recorded	O. K. within 3%	Within 6%	In Error Within 9%	Within 12%	More than 12%
28	23 (82%)	3 (or 11%)	2 (or 7%)	none	none

Weights Inspected

Total No. of weights recorded	Within 1%	2%	3%	4%	5%	6%	7%	8% or more
1-lb. and above								
62	54 (or 87%)	5	3		None			
1-oz. to 8-oz.								
46	41 (or 90%)	3	1	1	"			

Very few measures of any kind were found. Liquid measures were in every case correct. Dry measures were entirely discarded all of these commodities being sold by weight.

Thus in these stores 82% of scales found were correct within 3% and 11% of the remaining 18% were within 6% accuracy. 87% of the larger weights were correct within 1%, 8% were within 2%, none being more than 3% light. And in the same way 90% of the ounce weights were accurate.

In comparison with the former tabulated results the difference was so striking that an attempt was made to account for it and the following facts were elicited from several sources. On examination, it seems that "chain-stores" here have an inspection of weights and measures, the firm of H. Troemner of Philadelphia being employed in most cases. An expert visits all the stores and tests, approves of or condemns and repairs all apparatus in use. And the above conditions seem to result. The central firms go to this expense so as to assure themselves insofar as possible that full weight and measure are being given in their stores, since they point out that short weight in any one store, discovered, would militate against all their stores, causing a large total loss of patronage.

The great good which a private inspection has thus caused indicates the change in general conditions caused by an efficient inspection. And an official inspection is far better than that noted above since the tests are then official, a seal appears on the scale for the protection of the buying public, and it applies to every merchant alike. Thus all false apparatus may be weeded out and fair competition established. But in the absence of official tests, private tests appear to accomplish much good and these will usually be made when no gain accrues to owner through short weight and measure and where harm only is liable to ensue, as in the above case.

Another phase of the subject of weights and measures to which particular attention was paid was to the weight of goods already put up by the merchants, ready for delivery. A large number of these packages were usually found in "chain-stores" and data was obtained in other stores as well. In the former case this data tends to show whether mere supervision of the apparatus in use is sufficient to insure correct weight and measure for the purchasing public. It also throws light on the question as to whether faulty apparatus and short weights and measures mean actual short amounts delivered to the consumer as a result. The question of shrinkage and of gross and net weight also figure.

First, then, from all data obtainable, it would appear that any shortage in the weights, measures or scales directly result in a similar shortage of weight and measure delivered to the customer Probably on account of keen competition in prices the merchant gives exactly that amount indicated by the apparatus in use and thus, if apparatus is short, the delivered commodity is also short. The old idea of giving "down-weight" is largely superseded by the present-day idea of exact weight. The present method largely in use of delivering to the customer packages already done up, so that the customer no longer sees the actual weighing process has, we believe, been largely responsible for this result.

Second, it appears that very rarely is any allowance made for the weight of the container. That is, gross weight instead of net weight is near always given. The merchant always claims that he is entitled to a return for the bags, butter-dishes, etc. for which he must pay. However, to charge perhaps 35 cents per pound for half-ounce wooden platters which cost perhaps 3 or 4 cents per pound, and 25 to 50 cents per pound for paper bags delivered with coffee, tea or other similar goods, which cost but a small fraction of that sum, is plainly a fraud upon the buyer of the commodities. Package charges may fairly be figured when the selling

A Bottomless Double End Measure

Divided by a partition; one end serving as a half-peck, the other as a quarter-peck measure. Note the metal hoops conveniently placed to permit cutting down the wooden edge. The use of this type of measure is prohibited in Richmond, Va., where it is manufactured.

UNIV. OF
CALIFORNIA

price of a commodity is being determined, but can never be correctly charged in, by adding its weight to the weight of the commodity itself.

Third, that the mere inspection of weights and measures is not sufficient to prevent all fraud, is indicated by the fact that in some stores where the weights and measures were found correct, shortages in packages done up ready for delivery were discovered. Many of these discrepancies were too serious to have been caused by shrinkage while in other cases packages had but just been weighed out. These shortages may be explained in two ways. 1st. Deliberate intention to defraud. 2nd. By attempts made to cover shrinkage, leakage, etc., by making each purchaser bear a proportionate share of the general loss. In "chain-stores" packages were often short in weight or measure. As far as we are able to determine, it appears that managers of "chain-stores" are sold a certain amount of commodity by the central company and are held accountable for a sale of this amount. If this is correct, it accounts for the large number of slight shortages found in these stores. For the managers, to protect themselves, are obliged to gain by short weight or measures, any loss of stock due to shrinkage, as well as to leakage, error, etc. In this case of appearing to deliver every pound of original consignment to the customer, the latter will often be considerably defrauded, in the case of articles which are delivered in large quantities and which sell slowly; in articles which shrink rapidly; and in the case of articles improperly guarded from leakage of any kind. And moreover this shortage will necessarily vary with the season and in other ways. Thus the consumer would never be able to accurately tell how much he was about to receive for any stated quantity. As in the case of net and gross weight already discussed, these losses must undoubtedly eventually be borne by the consumer, but a proper adjustment should once again be made in selling prices and never in the amount of commodity delivered.

Of the seventy-five packages found in stores ready for delivery which were weighed by your inspectors, 7% were overweight, 4% were correct, while 89% were short in weight. The average of the overweight was about one per cent, while the shortweight amounted in certain cases to 15%. A large majority of the packages were weighed up in chain stores, or the stores where the weights and measures were nearly correct, since the poorer stores very seldom had packages ready for delivery.

The data maintained is mainly of interest in showing how nearly all of even the better stores deliver gross instead of net

weight, and deliver short packages in order to eliminate waste from their calculations. In a few cases the short weights could be traced directly to faulty apparatus found.

Butter put up in "prints," sold as pounds, was very generally short in weight. That this was intentional and was in many cases, at least, not due to shrinkage, was indicated by the fact that in some stores butter which had been in stock 3 or 4 days or more and butter received fresh within a few hours were practically the same amount short. These shortages in "chain-stores" and "independent stores" differed very slightly. Of the 37 one-pound prints weighed, only 19% were correct, while of the remainder 20% were more than ½ oz. (or 3%) light. Of the ½ pound prints 18% were correct, while 87% of those short were more than 3% underweight, and 44% were more than 6% underweight.

The average weight of bread throughout the city was about 14 ounces per loaf.

It seems advisable at this point to call attention to a particular feature of a computing scale which was found on almost all barrel spring scales of the make referred to. On more than fifty per cent of these the front and back indicators, read by the purchaser and merchant respectively, did not start from the same point on the graduated scale; for when the front was correct the back read from one and a half to two ounces fast. Thus the customer saw a scale apparently correct, while the merchant on his side was short-weighing from one to two ounces. The general prevalence of this error would lead to the belief that the scales were so sold to the merchant. This was also indicated by the fact that apparently honest merchants had the scale adjusted correctly on their side in which case it was often one and a half ounces slow on the customers' side. Since the merchant would have no desire to have the front read incorrectly when the back was correct, it is hardly possible that these merchants readjusted these scales to read in this manner. A scale which does not read similarly for customer and merchant is a very dangerous form of scale, since it renders it very difficult to protect himself from short weight.

The findings of the government inspectors as to condtions in "chain" stores are consistent with the results of the tests made in this investigation. One-pound purchases were made in nineteen stores, and of these, seventeen gave short weight; the amount of the commodity delivered ranging from 14 3/16 ounces to 15 13/16 ounces. One gave even weight, and one gave over weight,—17 3/16 ounces.

The same applies to the tests of commodities already done up in packages. Of forty-four one-pound packages of rice and of sugar, thirty-eight were short, one was correct, and five were over weight. The short weight packages ranged from 14 10/16 ounces to 15 15/16 ounces, and the excess weight packages ranged from 16 2/16 to 17 2/16 ounces. Six one-pound packages of bacon were purchased, and all were short; the weight ranging from 12 8/16 to 15 3/16 ounces.

The Reading Terminal market at Twelfth and Arch streets is the largest and best known public market in the city. It is well kept and sells only a good class of commodities. Ten purchases of fresh meat and ten of bacon were made at this market, with the result shown in Table 4 and also in Exhibit 4.

Table 4, Showing Excess and Shortage in Twenty Purchases of Meat at the Reading Terminal Market

Test	Kind of Meat	Quantity Paid for		Quantity Received		Percentage of Loss to	
		Lbs.	Ozs.	Lbs.	Ozs.	Dealer	Cust'm'r
231	Bacon	1	0	1	13/16	5.0	
232	"	1	0	..	14 10/16	..	8.5
233	"	1	0	..	13 8/16	..	15.6
234	"	1	0	..	15 3/16	..	5.0
235	"	1	0	..	14 10/16	..	8.5
236	"	1	0	1	2/16	.7	..
237	"	1	0	..	14 1/16	..	12.1
238	"	1	0	..	14 5/16	..	10.5
239	"	1	0	..	14 8/16	..	9.3
240	"	1	0	..	12 8/16	..	21.8
241	Steak	1	12	1	9 6/16	..	9.3
242	"	1	2	1	1 14/16	..	.6
243	"	1	0	..	15	..	6.2
244	Chops	2	0	2	6/16	1.1	..
245	"	2	0	1	14 15/16	..	3.3
246	Roast	5	0	4	15	..	1.2
247	"	5	8	5	7 10/16	..	.4
248	"	4	12	4	12 10/16	.8	..
249	"	4	12	5	1 3/16	6.8	..
250	"	3	0	3	3 7/16	7.1	..

Here it appears that on steak and chops, both expensive varieties, the loss was almost wholly on the customer's side. On roasts, the reverse is true. Of ten one-pound purchases of bacon, another expensive commodity, eight were short, the weight ranging from 12 8/16 ounces to 15 3/16 ounces. Four of the scales upon which this bacon was weighed were "fast," the extremes being one ounce and three and a half ounces.

Concerning the conditions at the Reading Terminal market, the report of the government inspectors reads:

> Of the spring scales inspected here, 1 was found 4 ozs. fast, 2 were 3 ozs. fast, 14 were 2 ozs. fast, 2 were 1-½ ozs. fast, 20 were 1 oz. fast, and 6 were ½ oz. fast, making a total of 45 scales in constant use which were from 3 to 25% against the customer on an average weight of one pound of commodity. Numerous even-arm platform scales were also out of balance. No dry quart measures were in evidence, all those in use being liquid measures, although no liquids were sold upon the market place. Some of the double dry measures were 7% or more short, without bearing external sign of change, while others had very palpably been sawed or otherwise tampered with.

Section 1 of the ordinance of October 1, 1858, which is the only ordinance in force which is concerned with all market houses whether owned by the city or by private parties, is as follows:

> Every basket, box, tub, or other article used for the sale of fruits, vegetables, or berries that require measurement, in market houses, or market stands, shall have the fractional part or parts of a bushel, which said basket, box, or other article will contain, when even-full, labelled, stamped or marked thereon, outside, in plain characters of at least one inch in size (Appendix A, §§72, 74.)

The conditions in four other markets are described as follows:

> In the market building at 19th and Market streets not nearly so much apparatus was in use, but conditions were similar in almost every respect. Here were scales 4 ozs., 3 ozs., 2 ozs., 1 oz.,

FRESH MEATS

BACON

EXHIBIT 4

Showing excess and short weight in twenty purchases of meats at the Reading Terminal Market.

and ½ oz. fast, the total faulty spring scales numbering nine. Measure conditions are similar to the above market; again no quart dry measures being used.

At 40th and Market streets inspection showed variations of scales from one to four ozs. fast, nine faulty spring scales alone being observed. Measure conditions were largely as before.

At 2nd and South, 19 incorrect spring scales were found out of the small number in use. Here also counter scales were largely out of balance and weights were being used on the extreme edges of the plates for the purpose of giving short weight. Tests on such scales prove they can be thus manipulated an ounce or more. In the market building at 2410 Kensington Ave., very little business was being transacted on account of the lateness of the hour at which the inspection was made, yet 6 spring scales out of those in use were fast as before.

The market at Second and South streets referred to, is one of the two market houses which remain in the possession of the city. These market houses are in charge of the bureau of city property (Appendix A, §§32-3.), and under the immediate supervision of clerks of the markets, who are directed by the ordinance of October 19, 1854 to "weigh, try, and examine all bread . . . or other provisions [except butter, lard, and sausage] sold in loaves, lumps, or parcels purporting to be of a given or accustomed weight or measure; and all scales, weights, and measures, which are found in markets not correct to the standard, shall be forfeited" (Appendix A, §§34, 73.)

It was the testimony of the dealers at these markets that the market clerks do not concern themselves with matters of weight or measure. Whether this be true or not, the conditions are themselves sufficient evidence that there is no inspection of an efficient nature.

At the South Second Street market, scales were seen which were "fast" from one and a half to two ounces. The results of purchases made at the two city markets are shown in Table 5 and Exhibit 5. It will be seen that a large number of purchases in each market were short weight.

Table 5, Showing Excess and Shortage in Twenty One-pound Purchases at City Markets

Test	Commodity	Quantity Received		Percentage of Loss to	
		Pounds	Ounces	Dealer	Customer
271*a*	Lard	..	14 10/16	..	8.5
272	Bacon	1	1/16	.3	..
273	Scrapple	1	2/16	.7	..
274	Liver	1	6/16	2.3	..
275	Bacon	..	15 11/16	..	1.9
276	"	..	14 12/16	..	7.8
277	Liver	1	3/16	1.1	..
278	Bacon	1	10/16	3.9	..
279	"	..	13 12/16	..	14.0
280*b*	Sausage	1	15/16	5.8	..
281	Bacon	..	14 6/16	..	10.1
282	Liver	..	14 1/16	..	12.0
283	Butter	..	15 9/16	..	2.7
284	Bacon	..	15 10/16	..	2.3
285	"	..	15 13/16	..	1.1
286	"	..	14 9/16	..	8.9
287	"	..	15 12/16	..	1.5
288	Liver	1	3 3/16	19.8	..
289	"	1	1 1/16	6.6	..
290	Scrapple	..	15 7/16	..	3.5

a Tests 271-280 South Second Street Market.
b Tests 281-290 North Second Street Market.

In connection with this table, it is pertinent to quote section 13 of the ordinance of December 12, 1865:

No person shall bring to the market houses or market places [belonging to the city] for sale, any bread, lard, butter or other provisions in lumps, loaves or other parcels, as or for a greater weight or measure than the true weight and measure thereof, or shall employ any device for imposition or fraud in the sale of any provisions (Appendix A, §77.)

The penalty is a fine of five dollars (Appendix A, §78.) This ordinance also prescribes that "no person shall use steel yards or spring balances within the market

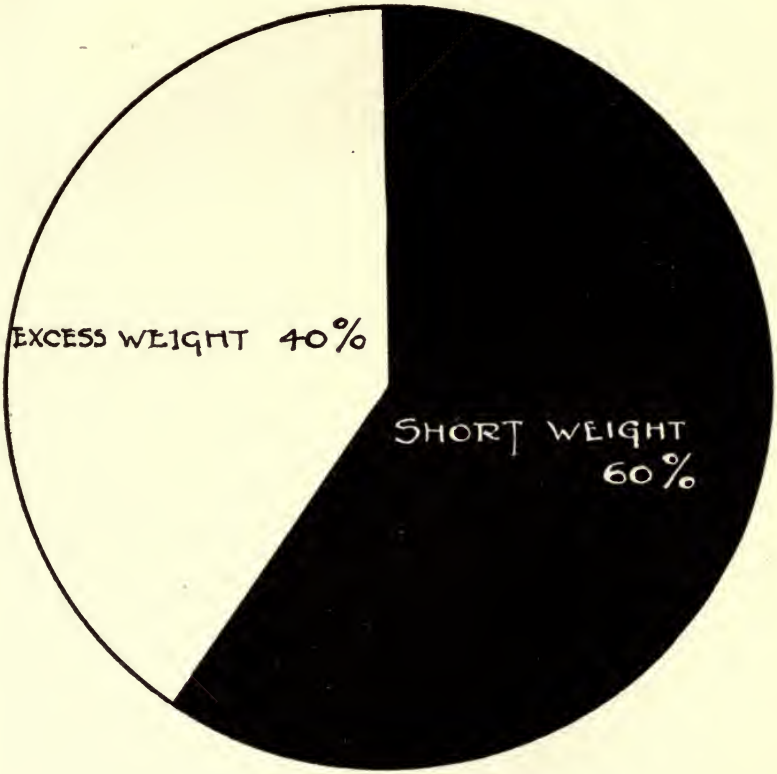


EXHIBIT 5

Showing excess and shortage in twenty one-pound purchases at city markets.

houses, market places or market limits" belonging to the city (Appendix A, §76.) The penalty is a fine of twenty dollars (Appendix A, §78.) The reason for this provision is not now apparent. Certainly it is not enforced, and there seems no reason why it should not be repealed.

Bread

There is a law which requires that "all loaf-bread made for sale within this commonwealth, shall be sold by the pound avoirdupois", under penalty of ten dollars fine (Appendix A, §§36, 119.), but no attempt is made to observe this requirement. If this law has any meaning at all, it is that the customer is entitled to know the weight of the loaf which he buys. It is the general opinion that loaves approximate a pound; and it is the general practice of bakers to take advantage of this impression and to make loaves somewhat lighter than a pound, except for an occasional dealer who wishes to attract trade by selling a mammoth loaf at little or no advance over cost. The price of wheat bread is universally five cents a loaf. The different weights of bread which the purchaser receives for this amount is shown in Table 6 and Exhibit 6.

Table 6, Showing the Variation in Weight of Loaves of Bread Purchased From Ten Bakeries at Five Cents Per Loaf

Test	Weight in Ounces	Percentage of Shortage on One Pound	Percentage of Excess on One Pound
261	23	..	43.7
262	12 7/16	22.2	..
263	15 3/16	5.0	..
264	15 10/16	2.3	..
265	14 4/16	10.9	..
266	15 15/16	.3	..
267	11 15/16	25.3	..
268	16 2/16	..	.7
269	13	18.7	..
270	14 6/16	10.1	..

29476—1

Upon the theory that the result would be representative, ten purchases of one-pound boxes of candy were made in as many stores along Chestnut street. The details of these tests are presented in Table 7 and Exhibit 7.

Table 7, Showing Excess and Shortage in Ten One-pound Purchases of Candy in Chestnut Street Stores

Test	Quantity Received		Percentage of Loss to	
	Pounds	Ounces	Dealer	Customer
251	1	1 1/16	6.6	..
252	1	11/16	4.2	..
253	1	11/16	4.2	..
254	..	15 9/16	..	2.7
255	..	15 13/16	..	1.1
256	..	15 13/16	..	1.1
257	..	14 13/16	..	7.4
258	..	15 14/16	..	.7
259	..	14 6/16	..	10.1
260	1	6/16	2.3	..

In Test 251, the lid, which was of the same size and weight as the box was placed on the weight side of the scales. In Test 252, the candy was weighed before it was placed in the box. In Test 260, an ounce weight was placed on the weight side of the scales to counterbalance the box. The result in each case was over weight. In Test 253, the candy was weighed in the box, but reweighing showed that generous allowance had been made for the weight of the box. In Test 256, the lid, which was about one-third the size of the box, was placed on the weight pan, and a small shortage was the result. In Tests 254, 257, and 259, the candy was weighed in the box, with a resulting shortage in each case. The candy in Tests 255 and 258 had been put up and weighed before it was ordered. As might be expected, both were short in weight.

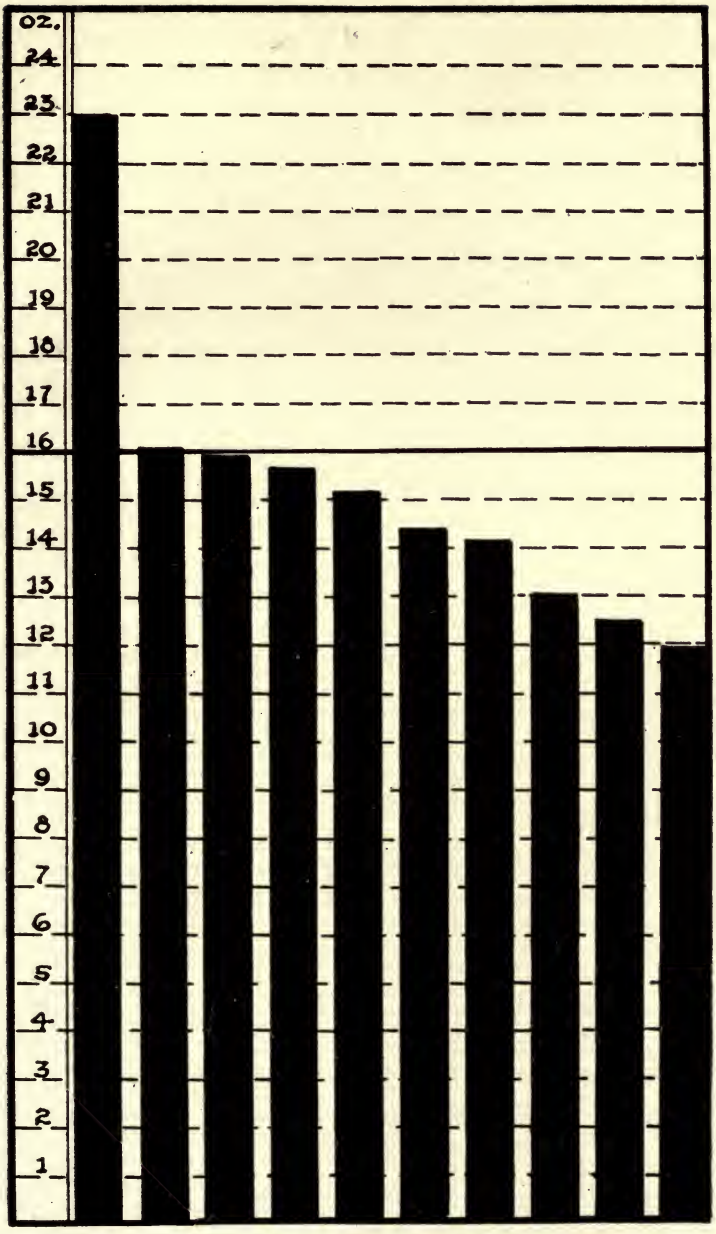


EXHIBIT 6

Showing variation in weight of loaves of bread purchased from ten bakeries at five cents per loaf.

Dry Goods

Shortage in purchases of cloth is more likely to appear in width than in length, and except as width is determined by order of the dealer, this is a problem of manufacture and not of sale at retail. Moreover, cloth is ordinarily cut to a pattern which requires a certain length, and a shortage is likely to be discovered. And women generally are better judges of length than of volume or of weight. For these reasons, the matter of shortage in linear measure is not so troublesome as in capacity measure or in weight. In order to learn what measure was given by dealers in dry goods, tests were made of articles, in which the consideration of width was necessarily not a factor. For this purpose ribbon, braid, and elastic were chosen for testing, and the results of the tests are given in Table 8 and Exhibits 8, 8A, and 8B.

Table 8, Showing Result in 200 Five-yard Purchases of Dry Goods

Commodity	Total Purchases	Purchases Remeasured Showed					
		Correct Measure		Loss to Dealer		Loss to Customer	
		Number	P. Cent	Number	P. Cent	Number	P. Cent
Elastic	95	1	1	18	19	76	80
Ribbon	70	2	3	40	57	28	40
Braid	35	1	3	22	63	12	34
Total	200	4	2	80	40	116	58

Eighty per cent. of the purchases of elastic were short, as were 40 per cent. of the purchases of ribbon. Only four tests showed even measure. In Exhibit 8B, it appears that about 5 per cent. of the purchases were over five inches in excess of the length paid for; while 25 per cent. were over five inches short.

The goods were measured by means of yard sticks, tapes, and marks on the edge of counters. Counter-tacks

were found to be in general use, but there were also notches and line marks on counters, show cases, and window sills, which were not readily distinguishable. One woman measured elastic by taking the distance from her nose to the extent of her reach. When re-measured a five yard purchase of elastic was found to be four yards and fourteen inches long.

It was found that when both high priced and low priced goods were purchased from the same store, the difference in price was not a factor in determining the measure. Almost without exception, the dealer who gave short measure on expensive goods, did likewise on goods sold at a few cents a yard.

Milk

An increasing amount of milk is being sold in bottles, and there are thousands of milk bottles in use in Philadelphia; how many, it would be impossible to determine with accuracy. There is no law in Pennsylvania governing the size of milk bottles, but manufacturers in this state attempt to conform to the requirements of the laws of Massachusetts and of New York,[1] which allow a capacity variation of four drams either way on the quarts, and three drams on the pint. The milk in the bottles should reach to the cap or stopper. It would seem that when a bottle is not filled properly, the customer can be safely left to protect himself either by means of a remonstrance or by a change of dealers.

There are three methods of making glass bottles: by hand, by semi-automatic machines, and by automatic machines. The first method is now practically obsolete. By means of the semi-automatic machines it is possible to make bottles which will conform to the requirements of the Massachusetts and New York laws. By means of the automatic machines it is possible to make bottles with approximate accuracy or at most with a maximum variation of two

[1] See page 73.

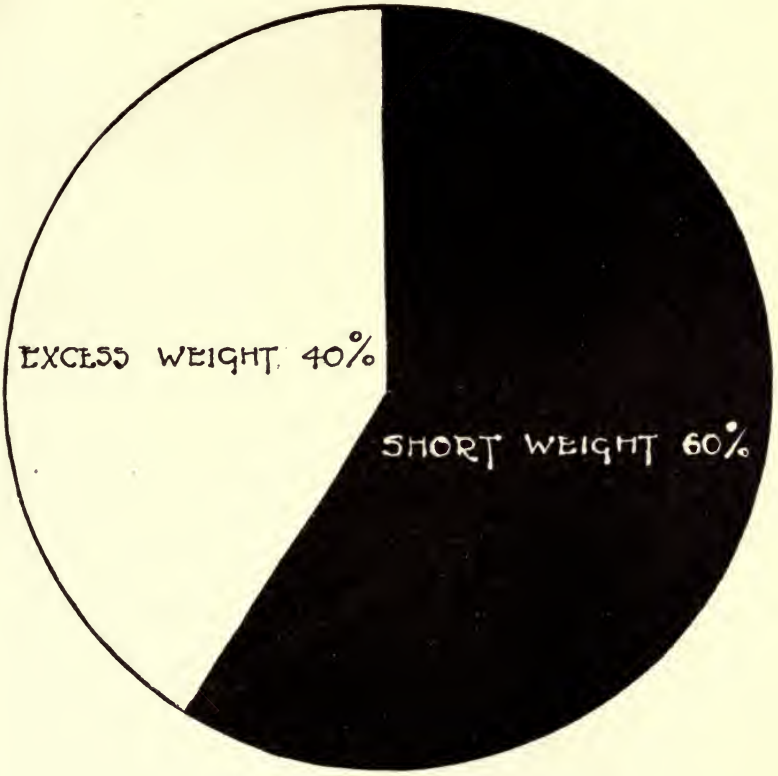


EXHIBIT 7

Showing excess and short weight in ten one-pound purchases of candy in Chestnut Street stores.

UNIV. OF
CALIFORNIA

drams. Even with this small shortage, in the thirty-two times which the average bottle is used, the shortage on the milk would represent half the cost of the bottle. But this is a small amount, for the cost of a quart bottle is four cents, and of a pint bottle, three and a half cents.

To require the degree of accuracy possible from the use of the automatic bottle machine, however, would result in putting those manufacturers who have the right to use them in full control of the local milk bottle trade. It is for this reason that Massachusetts and New York have adopted their present requirements, and Pennsylvania cannot do better than follow their example. When bottles are short of those requirements it is because they have been ordered short; and this is a practice which is not uncommon.

It is generally agreed among milk dealers that there are many short bottles in use in Philadelphia, and while many of the dealers are making an honest effort to discard them, progress is slow because some bottles are kept by customers and returned to service only after a long period of time. At the worst, conditions are better now than when handblown bottles were in common use.

It is obvious that any test of less than several thousand bottles in use throughout the city would be inconclusive, and it is equally obvious that this would be impracticable in an investigation of this nature. What was done was to ascertain what are the important factors in the problem, and this information is here presented.

Conclusion

The present investigation might have been extended indefinitely to other lines of trade. There is available sufficient evidence of a general nature which would lead to the belief that tests of hay, grain, and mill feed as delivered in Philadelphia would produce quite as interesting results as were obtained in the coal tests. The accuracy of measures and measuring pumps used in the sale of gasoline and other liquid commodities in general use might also be subject to

test. Enough evidence of a specific nature has been presented to warrant the contention that what is needed in Philadelphia is a bureau of weights and measures, with an efficient body of inspectors and ample authority in legislation. The activity of such a bureau would not be confined to the subjects considered in this chapter, but it would extend to all transactions in which commodities are bought or sold by weight or measure, and to all cases in which compensation of employees is determined by means of weighing or measuring apparatus. It could be made as effective as the honest men and women of the community desire; for violations not detected by the inspectors must be brought to their attention by the householder. As a fitting conclusion, the final paragraphs of the government inspectors' report are appended:

Honest merchants throughout the city realize the importance of an inspection and, lacking an official sealer, are driven to obtain help in various other ways. Thus the "chain-stores" establish a private inspection; a large milk firm has measures and graduates sealed by the city sealer of Trenton, N. J., and with these they test new bottles and accept or reject them as they are found accurate or inaccurate; and this firm also tests bottles and measures for others upon request. The Camden, N. J. sealer is frequently called in to settle disputes with tests by his standards throughout the city. And he does this without charge as an accommodation, although his time is fully filled by the needs of the people of his own city, by whom his salary is paid.

A very great percentage of apparent fraud permeates the business of the city. Large amounts are being lost by the consumer through the ignorance of the merchant regarding the accuracy of his apparatus. The total loss resulting from these causes of short weight and measure means a very large loss to the buying public of the city; and this loss will undoubtedly continue unabated until some rigid inspection service is established capable of wiping out intentional and unintentional fraud alike.

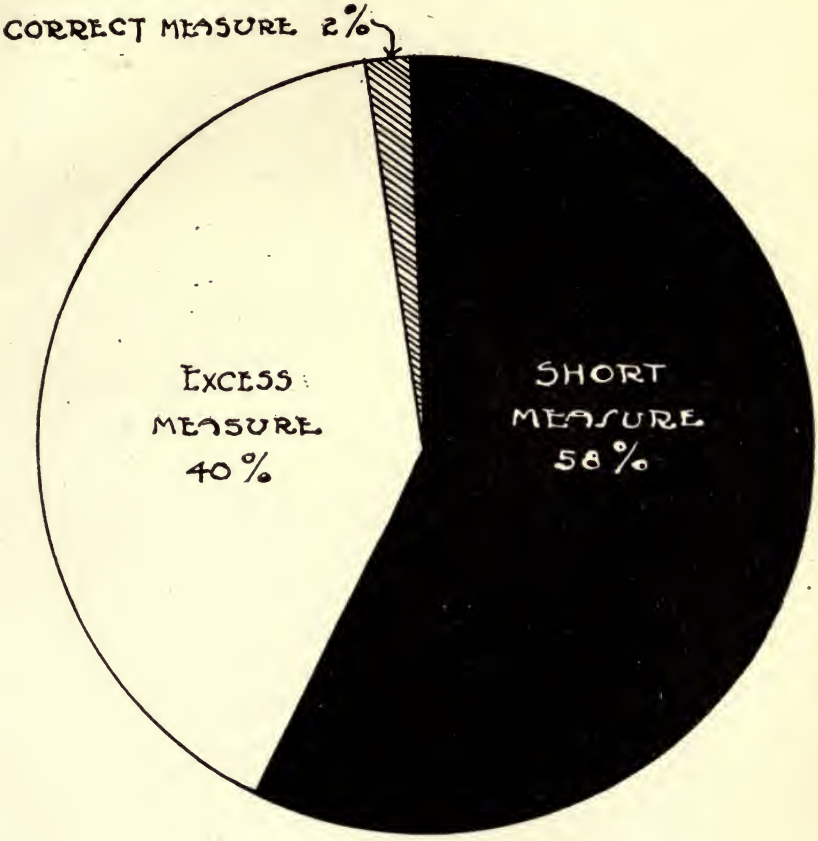


EXHIBIT 8

Showing excess, correct, and short measure in 200 five-yard purchases of dry goods.

UNIV. OF CALIFORNIA
LIBRARY
OF THE
UNIVERSITY
OF
CALIF.

IV

A SUGGESTED REMEDY IN LEGISLATION

Undoubtedly something could be done toward improving the weights and measures situation in Philadelphia if the Mayor, through the department of public safety, should decide to act under his police authority (Appendix A, §§27-8.) A special commission of detectives from the bureau of police might be assigned to the duty of discovering violations of the laws and ordinances, and bringing offenders before the courts (Appendix A, §§30-1.) THE BUREAU OF MUNICIPAL RESEARCH stands ready to turn over the specific detail of the tests summarized in the foregoing chapter, with names of dealers and full particulars, to aid in such a movement; but this material cannot be made available except to the Mayor or other legally constituted authority. It is seriously questioned, however, whether much lasting good would come of such a movement. Furthermore, it is submitted that after having so long neglected to assert themselves in the matter of short weights and measures, the people of Philadelphia and of Pennsylvania are themselves responsible for the existence of the practices of which they are the victims. It is true that the bureau of city property could and should assert itself to establish a better condition of affairs in the city markets (Appendix A, §§30, 32-4.), but of thirty or more public markets, the city owns but two. At best such action would solve only a small part of the problem of protecting purchasers from the dealers and the dealers from unfair competitors. The evil is too deeply rooted and too widespread for half-way measures. What is wanted is a law or series of laws dealing with the subject of weights and measures in a comprehensive way. The statutory provisions could be elaborated by councils to fit local needs, and the situation would then be specifically within the jurisdiction of the mayor and the administrative officials who would

be appointed to deal with it. In default of state action, the city should proceed at once to establish a bureau of weights and measures.[1]

It is necessary, therefore, to consider carefully and in some detail what legislation is necessary or desirable. There are already many good laws on the subject which need not be changed; there are others which must be amended to make them conform to the needs of the situation; and there are still others which should be repealed wholly or in part.

Experience has demonstrated that when legislation on a broad general subject is desired, expediency demands that this be attempted through a series of consistent bills, each designed to deal with one specific part of the problem. Only in this manner can the essential requirements be considered apart from those provisions which are merely desirable; only in this manner is it possible to insure against the failure of an entire program of legislation because of opposition to particular sections.

The subject of weights and measures legislation naturally falls under five main divisions; (1) standards and denominations, (2) the manner of sale of various commodities or classes of commodities, (3) the penalty for acts intended to defraud purchasers, whether through shortage, substitution, or misrepresentation, (4) the manner of inspection by administrative officials, and (5) the marking of the net contents of containers in terms of weight, measure, or numerical count. This, then, is the legislative program that is proposed; it calls for five separate bills which shall cover the whole subject, but in such a way as to make it possible to consider them with due regard to their relative importance. The suggestions which are here advanced, are offered with due recognition of the fact that the subject is one of extremely wide ramifications, affecting many varieties of business. They are frankly tentative; but considered with due reference to the materials which have been already presented in this report and to the digest which constitutes

[1] See page 19.

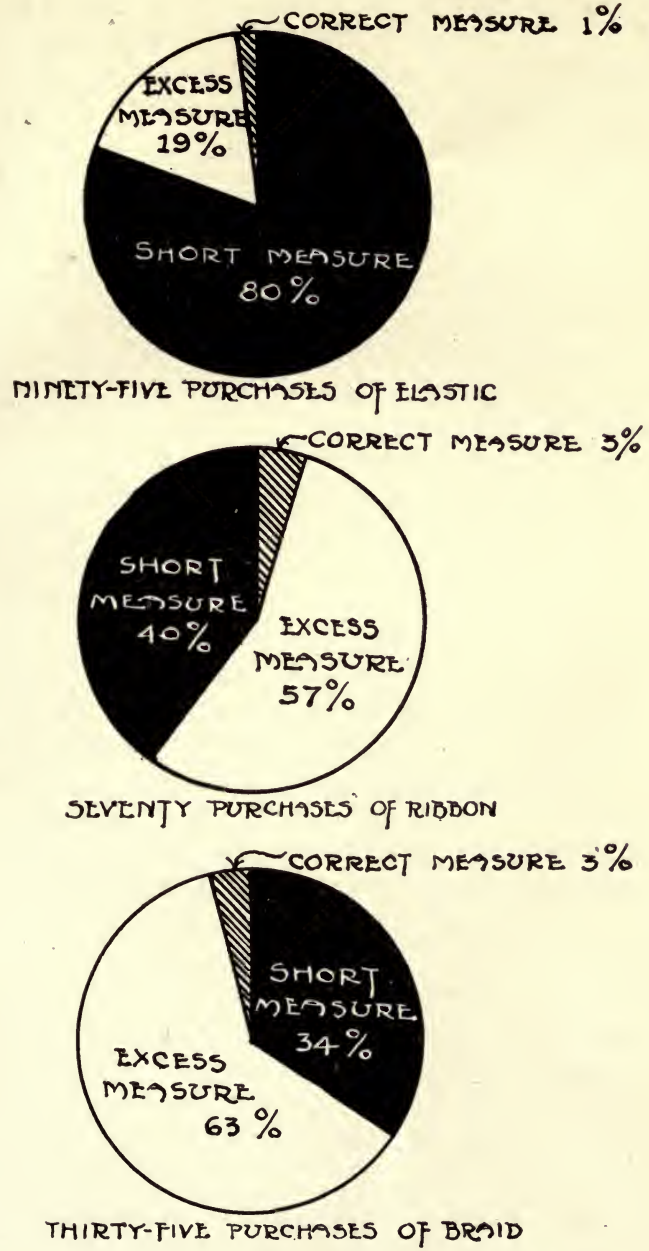


EXHIBIT 8a

Showing excess, correct, and short measure in 200 purchases of elastic, ribbon, and braid.

Appendix A, they will contribute to an intelligent and comprehensive discussion of the subject.

It must be recognized in the discussion which follows that the subject of legislation is considered primarily from the standpoint of Philadelphia. There are some special laws, enacted before the adoption of the present constitution, which relate to other cities and counties, and these are not within the scope of the present inquiry. Neither are the more recent general laws which do not affect Philadelphia as the only city of the first class. On the other hand, there are many laws applicable to Philadelphia but to no other municipality. This should be kept clearly in mind by those who desire a set of uniform weights and measures laws for all the local governmental units in the state. In most instances the titles of the various acts will show the extent of their application, and when they do not, the desired information may be obtained through an examination of the text of the laws themselves as presented in Appendix A. After an examination of the existing law, one cannot but be surprised that there are already so many excellent statutes and ordinances which need to be changed but little or not at all, and that there are so many provisions which are unquestionably obsolete. With some amendments, a few new provisions of statewide application, and an agency for administering the law, a good start may be made in a movement which must result in putting business throughout the state upon a higher plane of fairness and honesty.

Standards and Denominations

The act of April 15, 1834, entitled "An act to fix the standards and denominations of measures and weights in the commonwealth of Pennsylvania" is in many particulars operative to-day. In conformity with its provisions, the state obtained in three installments, in 1842, 1850, and 1876, the set of standards and balances which it lost in 1897, as has been already stated in the Introduction. Sections 4, 5, 6, 7, 8, 9, and 11 (Appendix A, §§10-15, 17.) direct the

governor to procure certain standards. They are temporary in their nature, obsolete in some particulars,[1] and necessarily ineffective in view of the loss of the standards to which they relate. Section 10 (Appendix A, §24.) directs county commissioners to maintain the accuracy of county standards by comparison with the state standards. The matter of verification of local standards is important, but it is not within the scope of the bill under discussion, which is concerned only with standards and denominations. Section 23 of the act of April 14, 1838, entitled "An act to authorize the auditor-general to institute suit for the collection of any balance which may be found due from Lawrence L. Minor, late clerk of the senate, and for other purposes" (Appendix A, §16.), is a supplement to these provisions, and like them it is temporary and obsolete. Similarly, section 2 of the act of April 15, 1845, entitled "An act authorizing the secretary of the commonwealth to distribute copies of the standard of weights and measures, and for the appointment of sealers" (Appendix A, §§18, 21.), is obsolete. There seems no good reason why the foregoing sections should not be amended or specifically repealed.

Sections 1, 2, and 3, of the act of April 15, 1834, fix the legal standards of linear, liquid, and dry measure, and of weights both avoirdupois and troy. The corresponding standards in the metric system have been already fixed by action of congress, which makes unnecessary further state action in the matter. Section 1 of the act in question (Appendix A, §1.) is obsolete in part; sections 2 and 3 require no change. Sections 12, 13, 14, 16, and 17 (Appendix A, §§ 4, 6, 8-9.), fixing the denominations of the standards, need not be changed. The proviso of section 15 (Appendix A, §7.), which defines the specifications of dry measures, is not consistent with the specifications approved by the national bureau of standards. Furthermore, the matter of

[1] The matter of obsolescence is here partly technical and partly legal. The technical changes in the standards are set forth by Mr. Louis A. Fischer, Chief of the division of weights and measures of the national bureau of standards, in a paper on the "History of United States Weights and Measures," published in the Proceedings of the First Conference on the Weights and Measures of the United States, 1905. Washington, 1907: 6-24.

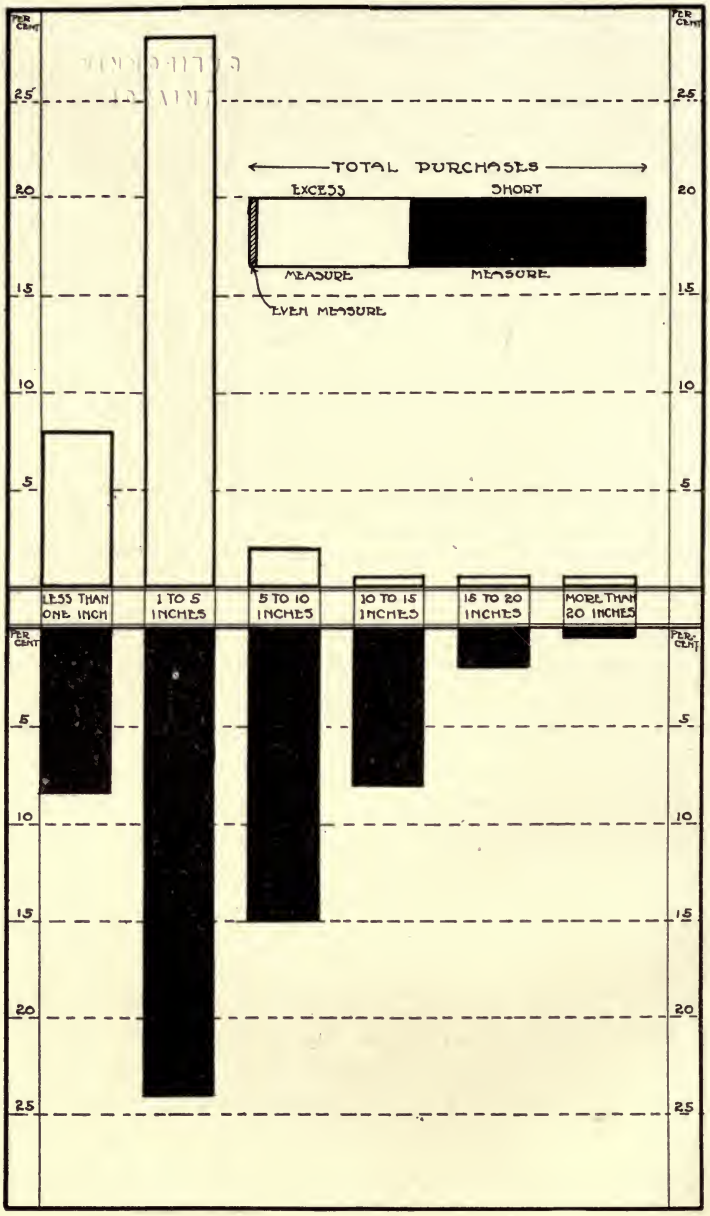


EXHIBIT 8b

Showing distribution of excess, correct measure, and shortage in 200 purchases of dry goods.

specifications is not within the scope of the proposed bill, which, as has been already said, is concerned only with standards and denominations. The results of the foregoing discussion, which is necessarily technical and complex, may be set forth in the form of concrete suggestions.

Act of April 15, 1834 to be changed as follows:

Section 1. (Appendix A, §1.) To read as follows:

"The standard unit of all measures of length, shall be the 'yard,' and one-third of said yard shall be one foot, and one-twelfth of said foot shall be one inch."

Sections 2 and 3. (Appendix A, §§2-3.) No change.

Section 4. (Appendix A, §10.) To read as follows:

"It shall be the duty of the governor of this commonwealth[1] to procure, within [Insert a definite interval of time] from the passage of this act, standard weights, measures, and apparatus, to replace the set which was furnished to this commonwealth by the government of the United States, in accordance with a joint resolution of congress, approved June fourteenth, one thousand eight hundred and thirty-six; Provided, however, That all such weights, measures, balances, and apparatus shall be verified by the national bureau of standards."

Sections 5, 6, 7, 8, 9, 10, and 11. (Appendix A, §§11-15, 17.) To be repealed.

Sections 12, 13, and 14. (Appendix A, §§4-6.) No change.

Section 15. (Appendix A, §7.) To be repealed as to proviso only.

Sections 16 and 17. (Appendix A, §§8-9.) No change.

Act of April 14, 1838, section 23. (Appendix A, §16.) To be repealed.

Act of April 15, 1845, sections 2 and 3. (Appendix A, §§18, 21-3, 25.) To be repealed.

[1] Or secretary of internal affairs.

The Manner of Sale of Various Commodities or Classes of Commodities

In common with the other states, Pennsylvania has a body of law prescribing the manner in which various commodities, or classes of commodities, shall be sold. Philadelphia also has a number of ordinances of the same nature. Many of these provisions relate to the subject of dry measure, which obviously is at best but a rough and approximate standard, because of the varying size and density of different dry commodities as well as of the same dry commodity in different instances and at different seasons. To meet this difficulty, various laws and ordinances have been adopted to regulate for specific commodities, the number of pounds or the number of cubic inches which shall constitute a bushel. There are, therefore, in Pennsylvania and elsewhere, certain weights and units of volume which are "bushels" only in name; and, moreover, there is considerable variation among the different states as to the requirements for the same commodity. The Pennsylvania laws of this nature relate to charcoal (Appendix A, §37.), clover seed (Appendix A, §40.), anthracite coal (Appendix A, §§41-2.), bituminous coal (Appendix A, §§47-9.), coke (Appendix A, §50.), potatoes (Appendix A, §53.), onions (Appendix A, §54.), grain, specifically, barley, buckwheat, corn, oats, rye, and wheat (Appendix A, §§55-7.), and foreign salt (Appendix A, §68.).

Under such laws it is possible for dealers to sell vegetables by weight at the season when they are green and heavy, and by measure when they have dried out; or to buy by weight at wholesale, and to sell a less quantity by measure at retail. Such practices have the sanction of custom, and although the statutory provision specifying the number of pounds or cubic inches to the bushel would undoubtedly be accepted as governing by a court, it would be almost impossible for a purchaser to produce evidence of intention to defraud so long as the dealer used accurate

dry measures. His only chance to recover the amount of the shortage would seem to be either to prove that he was not present when the measuring was done, or to produce evidence that although the dealer used accurate dry measures, he neglected to fill them properly.

In view of the fact that there is a growing tendency, particularly throughout the West, toward the sale of all dry commodities, and in some instances liquid commodities as well, by weight rather than by measure, there would seem to be little need for additional legislation prescribing for specific commodities the minimum weight or volume of a bushel, except to provide that in all cases in which existing laws require a specific number of pounds or cubic inches to constitute a legal "bushel," for a fractional part of a bushel a like fractional part of the prescribed weights or volumes shall be required. It might be well, however, to enact a law defining a legal barrel, for there is wide variation in the size and capacity of barrels, and no control over the manner of their use, except in the case of salt (Appendix A, §67.) Better still would be a law requiring the sale of all commodities by either weight, standard measure, or numerical count, which would make the size of the barrel, bag, or other container a matter of no importance to the purchaser.

It would be well, also, to amend section 2 of the act of March 10, 1817, entitled "An act for the better regulation of cord wood and bark exposed to sale within the city and county of Philadelphia" (Appendix A, §§70, 117.), so as to prescribe the minimum volume of a cord of wood when sawed and split, and possibly the number and size of barrels necessary to contain a cord.

Philadelphia has an ordinance which in some particulars might serve as a model for the state at large. This is the ordinance of November 17, 1857, entitled "An ordinance to regulate the sale of fruits and vegetables" (Appendix A, §52.), which requires the sale of fruits and vegetables by dry measure throughout the city. The manner of using dry measures is a subject upon which legislation

would seem desirable; particularly as to what commodities shall be sold by dry measure.

Section 2 of the act of April 1, 1797, entitled "An act to regulate the manner of selling loaf-bread, and to repeal certain existing laws respecting the same" (Appendix A, §§36, 119.) is excellent in its essential particular, the requiring of the sale of bread by weight and not by the loaf. Its purpose, however, would be more readily effected if it were amended so as to require that every loaf should bear a label or tag stating its weight, with a fair allowance for shrinkage. The variation in the weights would then be a matter of no concern to the purchaser.

There are two provisions still on the statute books which would seem to be obsolete. They are, an act passed in 1705, entitled "An act for selling beer and ale by wine-measure" (Appendix A, §79.), and section 10 of the act of March 12, 1789, entitled "A supplement to an act entitled 'An act more effectually to prevent unfair practices in the packing of beef and pork for exportation, and to regulate the exportation of flaxseed, butter, and biscuit in kegs'" (Appendix A, §80.) So also, are: the act of May 27, 1871, entitled "An act to regulate the weight of anthracite coal delivered by retail coal dealers in the city of Philadelphia" (Appendix A, §§43, 81-5, 87-8, 91-3, 95-6, 98-100.), and its supplement of April 3, 1872 (Appendix A, §§86, 89-90, 94, 97, 101-2.); the act of September 22, 1785, entitled "An act for regulating the measurement of corn and salt imported into the port of Philadelphia" (Appendix A, §§103-5, 112.); sections 4 and 5 of the act of June 16, 1836, entitled "An act supplementary to the various acts relating to orphans' and registers courts, and executors and administrators, and the act relating to the measurement of grain, salt, and coal" (Appendix A, §§106-7.); the act of April 12, 1867, entitled "A further supplement to 'An act regulating the measurement of corn and salt imported into the port of Philadelphia, approved the twenty-second day of September, one thousand seven hundred and eighty-

five' " (Appendix A, §108.); the act of March 27, 1821, entitled "An act to regulate inspections" (Appendix A, §§109, 111.); section 19 of the act of April 12, 1842, entitled "A supplement to an act, entitled 'An act authorizing the governor to incorporate the Tioga navigation company, passed the twenty-six day of February, one thousand eight hundred and twenty-six,' and for other purposes" (Appendix A, §110.); sections 2 and 3 of the act of March 23, 1819, entitled "An act prescribing the form of the bushel, to be used for measuring lime, in certain counties therein mentioned" (Appendix A, §114-5.); section 9 of the act of April 14, 1838, entitled "An act relating to the commencement of actions, to appeals from county auditors, and for other purposes" (Appendix A, §116.); and certain provisions relating to corders of wood in sections 2 and 3 of the act of March 10, 1817, entitled "An act for the better regulation of cord wood and bark exposed to sale within the city and county of Philadelphia" (Appendix A, §§117-8.); all these because of the constitutional provision "That no state office shall be continued or created for the inspection of any merchandise, manufacture, or commodity" (Constitution, 1874, art. 3, §27.)

In summary form these suggestions may be set forth as follows:

Act of March 10, 1817 to be changed as follows:

Section 2. (Appendix A, §117.) Strike out the words "corders or", which are the thirteenth and fourteenth words from the end of the section. Add to the section the following: "Provided, however, That [Insert volume in cubic feet; a figure between 141 and 148 is suggested.] cubic feet of sawed and split wood, thrown loosely, shall constitute a cord; or when sawed and split wood is thrown loosely into barrels, [Insert number of barrels] barrels of a capacity of seven thousand and twenty-six (7026) cubic inches, shall constitute a cord, and so in proportion for any barrel of greater or less capacity."

Section 3. (Appendix A, §118.) Strike out all except "If any person shall, within the said limits, sell as a cord of wood or bark, for fuel, any quantity less than the standard measure prescribed by this act, he shall forfeit and pay the sum of ten dollars."

Act of April 1, 1797 to be changed as follows:

Section 2. (Appendix A, §§36, 119.) After the words "All loaf-bread made for sale, within this commonwealth shall be sold by the pound avoirdupois," add the words, "And when offered or exposed for sale, each loaf shall bear a label or tag setting forth in Arabic numerals of at least one-half inch in height, the weight of the said loaf, when thoroughly baked, in ounces: Provided, however, That a reasonable variation from the weight as thus stated upon the said label or tag shall be allowed."

Act of April 3, 1872 to be changed as follows:

Section 4. (Appendix A, §101.) Strike out the words, "either of the inspectors or", which are the twenty-third to the twenty-seventh words inclusive from the end of the section.

Sections 1, 2, 3, 5, 6, 7, and 8. (Appendix A, §§86, 89-90, 94, 97, 102.) To be repealed.

Act of 1705. (Appendix A, §79.) To be repealed.

Act of March 12, 1789, section 10. (Appendix A, §80.) To be repealed.

Act of May 27, 1871. (Appendix A, §§43, 81-5, 87-8, 91-3, 95-6, 98-100.) To be repealed.

Act of September 22, 1785. (Appendix A, §§103-5, 112.) To be repealed.

Act of June 16, 1836, sections 4 and 5. (Appendix A, §§106-7.) To be repealed.

Act of April 12, 1867. (Appendix A, §108.) To be repealed.

Act of March 27, 1821. (Appendix A, §§109, 111.) To be repealed.

Act of April 12, 1842, section 19. (Appendix A, §110.) To be repealed.

Act of March 23, 1819, sections 2 and 3. (Appendix A, §§114-5.) To be repealed.

Act of April 14, 1838, section 9. (Appendix A, §116.) To be repealed.

Additional legislation is suggested as follows:

An act prescribing that "in all cases in which existing laws require, for any particular commodity or class of commodities, a specific number of pounds or cubic inches to constitute a bushel, for a fractional part of a bushel, a like fractional part of the prescribed weights or volumes shall be required."

An act to require that "all commodities which shall be sold or offered or exposed for sale within this commonwealth, shall be so sold or offered or exposed for sale only by weight, standard measures, or numerical count."

An act prescribing the commodities or classes of commodities which may not be sold by any other measure than dry measure. The Philadelphia ordinance referred to above reads in part as follows (Appendix A, §52.), with suggested changes inserted in brackets:

> It shall not be lawful for any person or persons to sell within the limits of the [commonwealth] any potatoes, tomatoes, peaches, pears, plums, apples, or other fruits, or vegetables, [or any berries] requiring measurement, by any other measure than the bushel and its divisions, . . . and for each and every sale hereafter made by the basket, or by any other measure or measures than those herein designated, the person or persons making the same shall forfeit and pay the sum of five dollars.

An act prescribing that "all retail dealers of coal,[1] hay, straw, grain, or mill feed shall give with each load a delivery ticket showing the name of the purchaser and seller, the net weight of the commodity, and the number of bales, or bags, if any, on the load; this ticket to be delivered by

[1] See Appendix A, §101, as to provision applying to Philadelphia only.

29476—5

the driver or person in charge of the wagon or other vehicle to some person in charge at the place of delivery; or in case no one is present to receive it, the bill shall be posted in a conspicuous place at the place of delivery before any of the load is removed from the wagon or other vehicle."

The New York law as to coal delivery tickets is as follows:

It shall be unlawful for any person, firm or corporation delivering coal in cities of the first or second class to deliver or cause to be delivered any quantity or quantities of coal which shall have been sold by weight, without each such delivery being accompanied by a delivery ticket, and a duplicate thereof, on each of which shall be in ink, or other indelible substance, distinctly expressed in pounds the quantity or quantities of coal contained in the cart, wagon or other vehicle used in such delivery, with the name of the purchaser thereof and the name of the dealer from whom purchased. One of such tickets shall be delivered to the purchaser of the coal specified thereon, and the other of such tickets shall be retained by the seller of the coal. Any person, firm or corporation who shall violate the provisions of this section shall be liable to a penalty of not exceeding fifty dollars.—Consol. Laws, 1909, c. 21, art. 11, §151.

The preceding section shall not apply to coal delivered by the entire cargo direct from the vessel containing the same to one destination and accepted by the purchaser on the original bill of lading as proof of weight; but with every such delivery of an entire cargo of coal in any city of the first or second class, there shall be delivered to the purchaser thereof one of the original bills of lading, issued by the person, firm or corporation by whom the coal was loaded into the vessel from which such coal is delivered to the purchaser of the entire cargo thereof, on each of which bills of lading there shall be in ink or other indelible substance distinctly expressed the date and place of loading such cargo, and the number of pounds contained therein. Any person, firm or corporation who shall violate the provisions of this section shall be liable to a penalty of not exceeding fifty dollars.—Consol. Laws, 1909, c. 21, art. 11, §152.

A person guilty of altering with intent to defraud, any original bill of lading issued by the person, firm or corporation by whom the coal was loaded into the vessel in which such coal is transported to any city of the first or second class, in this state, or of uttering any such bill of lading so altered, or who is guilty of

making, preparing or subscribing or uttering a false or fraudulent manifest, invoice or bill of lading thereof, or removing any part of such cargo of coal without having the amount thereof certified to in writing on such original bill of lading, by the person, firm or corporation receiving the coal so removed, and by the captain of the vessel containing such cargo, is punishable by imprisonment in a state prison, not exceeding three years, or by a fine not exceeding one thousand dollars, or both, and the delivery of any fraudulent bill of lading to any purchaser of coal shall be presumptive evidence of uttering the same with criminal intent.—Consol. Laws, 1909, c. 21, art. 11, §161.

The Massachusetts law provides as follows:

Whoever sells coke or coal by weight shall without cost to the purchaser cause the goods to be weighed by a sworn weigher of the city or town in which they are weighed, and shall cause a certificate stating the name and place of business of the seller, and either the identifying number, of which a permanent record shall be kept, or the name of the person taking charge of the goods after the weighing, as given to the weigher on his request, and the quantity of the goods, to be signed by the weigher. Such certificate shall be given to said person and shall by him be given only to the owner of the goods or his agent when he unloads the same; and every such person, owner or agent shall on request and without charge therefor, permit any sealer of weights and measures of any city or town to examine the certificate and to make a copy thereof.—Rev. Laws, 1902-8, c. 57, §88.

The Penalty for Acts Intended to Defraud Purchasers, Whether Through Shortage, Substitution, or Misrepresentation

We have already the act of June 5, 1883, entitled "An act declaring it to be a misdemeanor to use and sell by false beams, scales, weights and measures, and prescribing punishment therefor" (Appendix A, §35.), which is broad and comprehensive in its terms. There are also many penal clauses in the laws governing the manner of sale of specific commodities or classes of commodities, but with more or less archaic methods prescribed for the collection and disposition of fines. It is possible and desirable to supplement

these provisions along the line followed in the New York law. The following sections are offered as suggestions:

Keeping false weights and measures.

A person who retains in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used in violation of the last section, is guilty of a misdemeanor.—Consol. Laws, 1909, c. 40, art. 216, §2412.

False weights and measures authorized to be seized.

A person who is authorized or enjoined by law to arrest another person for a violation of the last two sections, is equally authorized and enjoined to seize any false weights or measures found in the possession of the person so arrested, and to deliver the same to the magistrate before whom the person so arrested is required to be taken.—Consol. Laws, 1909, c. 40, art. 216, §2413.

Weights and measures may be tested by committing magistrate and destroyed or delivered to district attorney.

The magistrate to whom any weight or measure is delivered pursuant to the last section, must upon the examination of the defendant, or if the examination is delayed or prevented without awaiting such examination, cause the same to be tested by comparison with standards conformable to law; and if he finds it to be false, he must cause it to be destroyed, or to be delivered to the district attorney of the county in which the defendant is liable to indictment or trial, as the interests of justice in his judgment require.—Consol. Laws, 1909, c. 40, art. 216, §2414.

False weights and measures to be destroyed after conviction of offender.

Upon the conviction of the defendant, the district attorney must cause any weight or measure in respect whereof the defendant stands convicted, and which remains in the possession or under the control of the district attorney, to be destroyed.—Consol. Laws, 1909, c. 40, art. 216, §2415.

Concealing foreign matter in merchandise.

A person who, with intent to defraud, while putting up in a barrel, bag, bale, box, or other package, ... any .... article of merchandise whatever, usually sold by weight in such packages, places or conceals therein any other substance or thing whatever, in a case where special provision for the punishment thereof is not otherwise made by statute, is guilty of a misdemeanor.—Consol. Laws, 1909, c. 40, art. 40, §434.

False labels.

A person who, with intent to defraud: 1. Puts upon an article of merchandise, or upon a cask, bottle, stopper, vessel, case, cover, wrapper, package, band, ticket, label, or other thing, containing or covering such an article, or with which such an article is intended to be sold, or is sold, any false description or other indication of or respecting the kind, number, quantity, weight or measure of such article, or any part thereof, or the place or country where it was manufactured or produced or the quality or grade of any such article, if the quality or grade thereof is required by law to be marked, branded or otherwise indicated on or with such article; or,

2. Sells or offers for sale an article, which to his knowledge is falsely described or indicated upon any such package, or vessel containing the same, or labeled thereupon, in any of the particulars specified; or,

3. Sells or exposes for sale any goods in bulk to which no name or trade-mark shall be attached, and orally or otherwise represents that such goods are the manufacture or production of some other than the actual manufacturer or producer, in a case where the punishment for such offence is not specially provided for otherwise by statute,

Is guilty of a misdemeanor.—Consol. Laws, 1909, c. 40, art. 40, §435.

These suggestions, it will be noticed, do not cover cases in which a person with intent to defraud knowingly substitutes wholly or in part for any article, merchandise, commodity, or thing, any matter or substance, whether of similar or of unlike nature, which is of lower quality or of lower price than the article, merchandise, commodity, or thing, which it is represented to be. Such a provision would effectually prevent the mixing of pea coal with nut coal and selling the product as nut coal, the watering of hay or coal, and other similar practices more or less sanctioned by custom.

The Manner of Inspection by Administrative Officials

At the third annual conference on the weights and measures of the United States, a set of model national and state laws on the subject was adopted, in order that uni-

formity of legislation might be promoted. They are given in full in Appendix B.[1]

We need concern ourselves only with that part of the document which begins with section 8.

Section 8 does not fit Pennsylvania conditions, as the standard set of weights and measures furnished by the United States is no longer in existence. As a substitute, the following is suggested, changes being indicated in brackets:

"The weights, measures, and balances [procured to replace the set which was] received from the United States under a resolution of congress, approved June 14, 1836, [and verified by the national bureau of standards,] and such new weights, measures, and balances as shall be received from the United States as standard weights, measures, and balances in addition thereto or in renewal thereof, shall be the authorized standards by which all county and municipal standards of weights and measures shall be tried, proved, and sealed."

In connection with section 9, it will be helpful to consider the cost of the state departments in New York and Massachusetts. The expenditures of Massachusetts on this account amounted to $13,345.60 for the year ended Nov. 30, 1909; the corresponding figure for New York was $10,905.60, for the year ended Sept. 30, 1909. Massachusetts then had one commissioner at $2000, four inspectors at $1200, one clerk at $900, and one clerk at $613.87. New York had one superintendent at $2000,[2] one inspector at $1200, three inspectors at $1100, and one clerk at $720. The superintendent of weights and measures of the District of Columbia receives a salary of $2500.

The subject matter of sections 10, 11, and 13, would seem to be covered more comprehensively in the following extracts; the first is from the New York law, the second from the bill to be considered by the Wisconsin legislature at the present session:

[1] See also the more recent recommendations in Appendix C.
[2] Since increased to $3500. There are now six inspectors.

The state superintendent of weights and measures shall take charge of the standards adopted by this article as the standards of the state; cause them to be kept in a fireproof building belonging to the state, from which they shall not be removed, except for repairs or for certification, and take all other necessary precautions for their safe-keeping. He shall maintain the state standards in good order and shall submit them once in ten years to the national bureau of standards for certification. He shall correct the standards of the several cities and counties and, as often as once in five years, compare the same with those in his possession, and where not otherwise provided by law he shall have a general supervision of the weights, measures and measuring and weighing devices of the state, and in use in the state. He shall upon the written request of any citizen, firm, corporation or educational institution of the state, test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in the state. He, or his deputies or inspectors by his direction, shall at least once annually test all scales, weights and measures used in checking the receipt or disbursement of supplies in every institution under the jurisdiction of the fiscal supervisor of state charities and he shall report in writing his findings to said fiscal supervisor and to the executive officer of the institution concerned; and at the request of said officers the superintendent of weights and measures shall appoint in writing one or more employees, then in actual service, of each institution, who shall act as special deputies for the purpose of checking the receipt or disbursement of supplies. He shall keep a complete record of the standards, balances and other apparatus belonging to the state. and take receipt for the same from his successor in office. He shall annually during the first two weeks of January make to the legislature a report of the work done by his office. The state superintendent, or his deputies or inspectors by his direction, shall inspect all standards used by the counties or cities at least once in two years and shall keep a record of the same. He, or his deputies or inspectors at his direction, shall at least once in two years visit the various cities and counties of the state in order to inspect the work of the local sealers and in the performance of such duties he may inspect the weights, measures, balances or any other weighing or measuring appliances of any person, firm or corporation.—Consol. Laws, 1909, c. 20, art. 2, §11, as amended L. 1910, c. 187, §1.

The state shall have a complete set of copies of the original standards of weights and measures adopted by this article, which

shall be used for adjusting county standards, and the original standards shall not be used except for the adjustment of this set of copies and for scientific purposes.

The state superintendent of weights and measures shall see that the foregoing provisions of this section are complied with and procure such apparatus and fixtures, if the same have not already been procured, as are necessary in the comparison and adjustment of the county standards.

He shall cause all the city and county standards to be impressed with the emblem of the United States, the letters "N. Y.," and such other devices as he shall direct for the particular county. —Consol. Laws, 1909, c. 20, art. 2, §12.

He shall take charge of the standards adopted by this article as the standards of the state; cause them to be kept in a fireproof building belonging to the state, from which they shall not be removed except for repairs or for certification, and take all other necessary precautions for their safe-keeping. He shall maintain the state standards in good order and shall submit them once in ten years to the National Bureau of Standards for certification. He shall keep a seal which shall be so formed as to impress the letters "Wis" upon the weights and measures, scales and beams, sealed by him, and he shall correct the standards of the several cities and counties, and, as often as once in five years, compare the same with those in his possession and shall seal the same when tried and proved to be in conformity with the state standard weights and measures, scales and beams, aforesaid. He shall have and keep a general supervision of the weights and measures and the weighing and measuring devices of the state, and in use in the state. He shall upon the written request of any citizen, firm, or corporation or educational institution of the state, test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in the state. He, or his deputy or inspectors by his direction, shall at least once annually test all scales, weights and measures used in checking the receipt or disbursement of supplies in every institution under the jurisdiction of the State Board of Control. And he shall report in writing his findings to such Board of Control and to the executive officer of the institution concerned, and at the request of such officer, the superintendent of weights and measures shall appoint in writing one or more employees, then in the actual service of such institution, who shall act as special deputies for the purpose of checking the receipt and disbursement of supplies.

He shall keep a complete record of the standards, balances and other apparatus belonging to the state and take receipt for same from his successor in office. He shall annually during the second week in January make to the governor a report of the work done by his office. The state superintendent or his deputy or inspectors, by his direction, shall inspect all the standards used by the counties or cities at least once in each two years and shall keep a record of the same. He, or his deputy or inspectors by his direction, shall at least once in each two years visit the various cities and counties of the state in order to inspect the work of the local sealers; and in the performance of such duties, he may inspect the weights, measures, balances or any weighing or measuring appliances of any person, firm, or corporation and shall have the same powers as the local sealer of weights and measures. The superintendent of weights and measures shall issue, from time to time, regulations for the guidance of county and city sealers and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties.—§1659.

Sections 14, 17, 18, 19, and 20 may be considered to advantage in connection with the following section from the Wisconsin bill, which is better than the New York law (Consol. Laws, 1909, c. 20, art. 2, §13, as amended L. 1910, c. 187, §1.) from which most of its provisions have been derived:

Where not otherwise provided by law, the county sealer shall have the power within his county to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement and tools, appliances or accessories connected with any or all such instruments or measurements, used or employed within the county by any proprietor, agent, lessee or employee, in determining the size, quantity, extent, area or measurement of quantities, things, produce, articles for distribution or consumption offered or submitted by such person or persons for sale, for hire or award.

He shall at least twice in each year and as much oftener as he may deem necessary, see that all weights, measures and weighing and measuring apparatus used in the county are correct. He may for the purpose above mentioned, and in the general performance of his official duties, enter or go into or upon and without formal warrant, any stand, place, building or premises or may

stop any vender, peddler, junk dealer, coal wagon, ice wagon or any dealer whatsoever, for the purpose of making the proper tests.

Whenever the county sealer finds a violation of the statutes relating to weights and measures he shall cause the violator to be prosecuted. Whenever the sealer compares weights and measures and finds that they correspond or causes them to correspond with the standards in his possession he shall seal or mark the same with appropriate devices to be approved by the state superintendent of weights and measures. The sealer shall condemn and seize and may destroy incorrect weights and measures and weighing or measuring instruments which cannot be repaired; and such as are incorrect and yet may be repaired he shall mark or tag as "condemned for repairs" in a manner prescribed by the state superintendent of weights and measures. The county sealer shall keep a complete record of the work done by him and shall make an annual report to his board of supervisors, and an annual report, duly sworn to, not later than the first of December to the state superintendent of weights and measures. The county sealer of weights and measures shall forthwith on his appointment give a bond, with sureties to be approved by the appointing power, for the faithful performance of the duties of his office and for the safety of the local standards and appliances for verification as are committed to his charge and for the surrender thereof immediately to his successor in office or to the person appointed by the proper authority to receive them.—§1661.

The following sections are also worthy of attention; the first is from the New York law, and the second from the Kansas law:

There shall be a city sealer of weights and measures to be appointed by the mayor with the approval of the common council of each city. He shall be paid a salary to be fixed and determined by the board or body authorized to determine salaries of city officials, and no fees shall be charged or received by him or by the city for the inspection or testing of weights, measures or weighing or measuring devices. He shall perform in his city the duties of and have like powers as a county sealer in a county. This section shall not apply to the city of New York.—Consol. Laws, 1909, c. 20, art. 2, §14, as amended L. 1910, c. 187, §1.

Any city or municipality in the state may[1] establish a department of public inspection of weights and measures, and shall have

[1] Better "shall."

power to appoint a sealer and deputies and fix their compensation, and to pass such ordinances not in conflict with the state laws as may be deemed necessary; and if a city or municipality shall establish such a department it shall provide the sealer with suitable quarters, a set of standards as hereinbefore specified in this act, and all other equipment for the proper performance of his duties. All city and municipal standards shall be tried, proved and sealed under the direction of the state sealer, and shall be returned to him for verification at least once in every five years.—Gen. Statutes, 1909, c. 125, §9765.

Section 27 might be made more explicit by the addition of a provision that the state commissioner of weights and measures shall have authority to prescribe the specifications for all weights, measures, balances, and measuring devices which may be used within the state, provided those specifications be first approved by the national bureau of standards.

It is submitted that the local sealing of milk bottles as provided by section 33 is unnecessary. The law need only declare that milk bottles are measures, and so subject to inspection and regulation; and that they need be sealed once and no more.

Massachusetts (L. 1909, c. 531.) and New York require that all milk bottles used in the state shall bear a symbol which shall identify the manufacturer of milk bottles. The New York requirement is as follows:

Bottles used for the sale of milk and cream shall be of the capacity of half gallon, three pints, one quart, one pint, half pint and one gill, filled full to the bottom of the cap ring or stopple. The following variations on individual bottles or jars may be allowed: six drams above and six drams below on the half gallon; five drams above and five drams below on the three pint; four drams above and four drams below on the quart; three drams above and three drams below on the pint; two drams above and two drams below on the half pint, and two drams above and two drams below on the gill. Bottles or jars used for the sale of milk shall have clearly blown, or otherwise permanently marked, in the sides or bottom of the bottle the name, initials or trademark of the manufacturer and a designating number, which designating

number shall be different for each manufacturer and may be used in identifying the bottles. The designating number shall be furnished by the state superintendent of weights and measures upon application by the manufacturer, and a record of the designating numbers and to whom furnished shall be kept in the office of the superintendent of weights and measures.

Any manufacturers who sell milk and cream bottles to be used in this state that do not comply as to size and marking with the provisions of section five-a shall suffer a penalty of five hundred dollars, to be recovered by the attorney-general in an action to be brought in the name of the people of the state of New York. Any dealer who knowingly uses for the purpose of selling milk or cream jars or bottles purchased after this law takes effect that do not comply with section five-a as to marking and capacity shall be deemed guilty of giving false or insufficient measure.—L. 1910, c. 470, adding §§5a and 5b to Consol. Laws, 1909, c. 20, art. 2.

The model law does not provide for public scales for the weighing of bulky commodities, particularly, coal, hay, straw, grain, and mill feed. Upon this point the following suggestions are offered:

In the District of Columbia there are public scales which are owned by the district government. They are operated by private individuals under annual contracts, entered into as a result of open bidding. The fees to be charged for their use are prescribed by the district government.

In New York the law is as follows:

There may be designated by the respective mayors of the cities of the first and second class, stationary or movable scales, suitable for the purpose of weighing coal, the owners of which may tender the same for public use in different parts of the city in such convenience in number and locality as shall be deemed necessary, on which the coal or coal vehicle, with or without coal, may be weighed at the request of the purchaser of the coal. The scales so designated shall be provided at the expense of the owners thereof, with test weights, and shall be subject at all times to the inspection and supervision of the sealers or inspectors of weights and measures in such city who shall inspect such scales at least once in each month. Such scales shall also be provided by the owner thereof with a competent weigh master. The owner of

such scales shall be entitled to charge for weighing coal and coal vehicles containing coal, at such scales, a fee of not exceeding fifteen cents per ton of coal; empty vehicles returning to such scale after delivery of the coal so weighed therein shall be reweighed without further charge.—Consol. Laws, 1909, c. 21, art. 11, §153.

It shall be the right of every purchaser of coal in any of the cities of the first and second class, before accepting the delivery of the same, to have any of the delivery of such coal weighed at his expense, at any of the scales designated under the provisions of the preceding sections, provided such scales are within a half mile of the place of loading or the place of delivery of the coal, and for this purpose to require that any vehicle containing coal purchased by him shall be taken by the driver or other person in charge thereof to such scales for the purpose of having the same weighed, and after the delivery of the coal to require that the vehicle from which such coal so purchased shall have been delivered shall be taken by the driver thereof, or any other person in charge thereof, to such scales to be weighed at the expense of the purchaser thereof, and a certificate of the weight of such coal, so weighed as aforesaid, shall thereupon be furnished to the purchaser of such coal by the owner of the scales at which such coal is so weighed.—Consol. Laws, 1909, c. 21, art. 11, §154.

The refusal of any seller of coal to permit coal purchased from him to be reweighed at the request of the purchaser thereof, as aforesaid, or any driver or other person in charge of a vehicle containing coal, or from which coal has been delivered, to take the same at the request of the purchaser, to such scales for the purpose of having the same weighed, provided, however, that the purchaser of such coal shall have first paid the owners of the scales or the seller of such coal or the driver or other person in charge of the vehicle containing such coal, an amount sufficient to meet the charges for weighing such coal, shall render the person, firm or corporation selling the coal liable to a penalty not to exceed fifty dollars.—Consol. Laws, 1909, c. 21, art. 11, §155.

The owner of such scales so designated, shall enter into a bond with the city in which such scales are situated, in the sum of five hundred dollars with two sufficient sureties, conditioned that such scales shall be kept in such condition as at all times to properly register the weight of coal, and that the person weighing coal thereat shall perform his duties faithfully, and furnish correct certificates to all persons having coal or coal vehicles weighed at such scales. The amount of such bond shall be recoverable at the

suit of the city on proof that any conditions thereof have not been complied with.—Consol. Laws, 1909, c. 21, art. 11, §156.

Any owner of such scales or any agent or representative of his, or any weighmaster employed by him thereat, who shall be in any manner concerned in any fraudulent weighing of coal at such scales, shall be guilty of a misdemeanor and shall be punishable by a fine of not exceeding five hundred dollars or by imprisonment for one year, or by both such fine and imprisonment.—Consol. Laws, 1909, c. 21, art. 11, §158.

Every owner of such scales shall keep a book in which shall be entered in ink a memorandum of every load of coal weighed at such scales, showing the name of the person, firm or corporation delivering such coal, the net weight thereof as shown by the delivery ticket thereof of such person, firm or corporation, the name of the purchaser thereof, the gross and net weight of the coal so weighed, and the date of weighing. Such book shall be the book of original entries, and all certificates delivered by the owner of such scales shall be copies of the entries contained therein, and such books shall at all reasonable hours be open to the inspection of any citizen.—Consol. Laws, 1909, c. 21, art. 11, §159.

The Massachusetts law is as follows:

The mayor and aldermen of a city or selectmen of a town shall appoint, and may remove, weighers of coal, one of whom at least shall not be engaged in the business of selling coal, who shall be sworn, and by whom all coal shall be weighed. No person shall be ineligible for appointment because of the fact that he is not a resident of such city or town, notwithstanding provisions to the contrary in any general or special act or city charter.—Rev. Laws, 1902-8, c. 57, §83.

A sealer of weights and measures of a city or town in which any quantity of coke, charcoal or coal for delivery is found may in his discretion, direct the person in charge of the goods to convey the same without delay or charge to scales designated by such sealer, who shall there determine the quantity of the goods, and, if they are not in baskets or bags, shall determine their weight with the weight of the vehicle in which they are carried, and shall direct said person to return to such scales forthwith after unloading the goods; and upon such return, the sealer shall weigh the vehicle. The scales designated by the sealer as aforesaid may be the public scales of the city or town or any other scales therein

which have been duly tested and sealed, and shall be such scales as are in his judgment the most convenient of those available.—Rev. Laws, 1902-8, c. 57, §89.

The existing laws relating to the duties of the secretary of the commonwealth and of the county commissioners in the matter of weights and measures are obsolete. The following action is therefore suggested:

Act of April 15, 1845, entitled "An act authorizing the secretary of the commonwealth to distribute copies of the standard of weights and measures, and for the appointment of sealers." (Appendix A, §§19, 21-3, 25.) To be repealed.

Act of September 29, 1843, entitled "An act to provide for the ordinary expenses of the government, and for other purposes," section 2. (Appendix A, §20.) To be repealed.

Act of April 15, 1834, entitled "An act to fix the standards and denominations of measures and weights in the commonwealth of Pennsylvania," section 10. (Appendix A, §24.) To be repealed.

As suggested above, the so-called "model law" is susceptible of improvement. This contention has been substantiated by action of the organization which drew up that document. At the sixth annual conference on weights and measures held in Washington on February 17-18, 1911, a new "model law" was adopted in the form in which it appears in Appendix C, where it is printed for the first time. Upon examination it will be seen that several of the changes suggested in the foregoing discussion, have been incorporated in the revised draft.

Sections 1 and 2 respectively correspond to sections 8 and 9 of the first draft. Section 3 corresponds to sections 10, 11, 12, and 13, the changes generally following the lines of the New York law and the Wisconsin bill, to which reference has been already made. Section 4 corresponds to section 17 of the first draft. Section 5 corresponds to sec-

tions 14, 18, 19, 20, 21, and 24, and the proviso to sections 15 and 16 of the first draft.

Section 6 corresponds in part to section 14, and the proviso to sections 15 and 16 of the first draft. There is need here for changes to make the text consistent with existing laws concerning municipal officials in Philadelphia.

Section 7 corresponds to sections 30 and 32 of the first draft. The penalty proposed is unduly severe. Under this section as it stands, a person could be imprisoned for an act of his agent, provided that act were the second offence against the law. When it is considered that a large business house may have many agents concerned with the delivery of goods, it is apparent that this section would put the principal to an undue disadvantage. A large coal dealer, for example, cannot be justly held accountable for the acts of one hundred or more drivers to an extent which would involve imprisonment.

Section 8 corresponds to section 18 of the first draft. Section 9 corresponds to section 22 of the first draft.

Section 11 relating to milk bottles follows the Massachusetts and New York laws. The New York law has been already quoted. The variations are consistent with the working agreement between the machine glass bottle and jar manufacturers and the glass bottle blowers' association of the United States and Canada, and experience has demonstrated that they are fair to all concerned.

To enact the first sentence of section 12 would be inconsistent with the act of April 2, 1822, entitled "An act to regulate the sale of stone coal within the city and county of Philadelphia, and to prevent the adulteration of linseed oil"[1] (Appendix A, §§41-2.) As already suggested, this is a good law which should be continued, though a change in the penalty clause would seem advisable.

We have already in the act of April 1, 1797, entitled "An act to regulate the manner of selling loaf-bread, and

[1] See pages 29-30.

to repeal certain existing laws respecting the same" (Appendix A, §§36, 119.), the requirement that loaf-bread shall be sold by weight; and a suggestion that loaves be marked with the statement of weight has been already advanced in this chapter.[1]

With the materials now available it should be possible to draw up a bill providing for an effective system of regulation and inspection of weights and measures for the state of Pennsylvania.

The Marking of the Net Contents of Containers in Terms of Weight, Measure, or Numerical Count

Two states, North Dakota (Rev. Codes, 1905, §2119.) and Nebraska (Comp. Statutes, 1909, c. 33, §8.) have laws which require that the net contents shall be shown on containers. In other states there has been sufficient opposition to prevent the adoption of similar laws. Section 8 of the act of April 11, 1850, entitled "An act authorizing the appointment of an auctioneer or auctioneers in the borough of Easton; and relative to the claim of Samuel Rice of Chester county; to incorporate the art union of Philadelphia; relative to short measure and weight in the sale of dry goods and groceries; and to the fees of the sheriff of Philadelphia" (Appendix A, §51.) is the nearest approach to such a law in Pennsylvania, and the impracticable manner prescribed for the obtaining of relief under the act makes it of little or no value. The Philadelphia ordinance of October 1, 1858, entitled "A supplement to an ordinance entitled 'An ordinance to regulate the sale of fruits and vegetables approved November 17th, 1857' " (Appendix A, §74.), which applies to all market houses and market stands within the limits of the city, requires that containers of fruits, berries, and vegetables that require measurement, shall be marked with a statement of capacity in terms of dry measure. This ordinance dates back to a period when the city owned eleven market houses. As it now owns but

[1] See pages 60 and 62.

29476—6

two, and as the jurisdiction of the clerks of the markets is limited to those belonging to the city, the ordinance is inoperative. It is excellent, however, and with adequate provision for its enforcement, it could be made effective.

The act of congress of June 30, 1906, entitled "An act for preventing the manufacture, sale or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," commonly known as the "Pure food and drug act," has to do mainly with quality. It does, however, require that food shall be considered as misbranded under the law "if in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package," (34 Statutes at Large, 770-1.), but this has only had the effect of causing many manufacturers to refrain from stating the weight or measure of the contents of a container. Bills have since been introduced to amend the act so as to require that food shall be considered as misbranded "if in package form, the net quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count" (61 Cong. 3 Sess., H. R. 29866.), and eventually the attempt to obtain adequate national legislation to this effect will succeed. THE BUREAU OF MUNICIPAL RESEARCH has made no study of this part of the subject of weights and measures, as the situation is one which can be best remedied through national legislation. Its one suggestion upon this point is that the ordinance of October 1, 1858, can and should be enforced.

APPENDIX A

Digest of Laws and Ordinances Relating to Weights and Measures in Philadelphia

---

Syllabus

I. Standards of weights and measures
   1. Linear measure
   2. Liquid and dry measures
   3. Weight

II. Denominations
   1. Linear measure
   2. Superficial measure
   3. Liquid measure
   4. Dry measure
   5. Weight—troy
   6. Weight—avoirdupois

III. Administrative agents who are authorized or required (by either general or specific organic provisions) to act in matters concerning weights and measures
   1. Governor
      a. To procure standards
      b. To furnish copies of standards to county commissioners
   2. Secretary of the commonwealth
      a. To have custody of standards
      b. To furnish copies of standards to county commissioners
   3. County commissioners
      a. May apply for copies of standards
      b. To maintain accuracy of copies of standards

c. To establish true meridian lines and fixed standard measures for surveyors' chains

4. Mayor of Philadelphia
   a. To cause laws and ordinances to be enforced
   b. May recommend measures to councils
5. Director of the department of public safety
   a. Responsible for police officers, and for inspection of markets
6. Police officers and constables in Philadelphia
   a. May arrest without warrant for violation of any ordinance
7. Chief of the bureau of city property
   a. To care for all market houses belonging to the city
   b. May prescribe duties of clerks of the markets
8. Clerks of the markets
   a. To examine provisions (with certain exceptions) in the market houses and market stands belonging to the city; to condemn inaccurate scales, weights, and measures; and to prosecute

IV. Law (in force) governing the purchase and sale of commodities in general
   1. Misdemeanor wilfully to sell by false beams, scales, weights, and measures.—Penalty

V. Laws and ordinances (in force) governing the purchase and sale of specific commodities, or classes of commodities
   1. Bread
      a. To be sold by the pound avoirdupois.—Penalty

2. Charcoal
    a. Standard bushel.—Penalty
3. Clover seed
    a. Standard bushel
4. Coal—anthracite
    a. Standard bushel.—Penalty
    b. Standard ton.—Penalty
5. Coal—bituminous
    a. Standard bushel
    b. Standard bushel and standard ton.—Penalty
6. Coke
    a. Standard bushel
7. Dry goods and groceries
    a. Misrepresentative markings and misstatements of numerical count or of net weight.—Penalty
8. Fruits and vegetables in general; and specifically: apples, peaches, pears, plums, onions, potatoes, and tomatoes
    a. To be sold by dry measure.—Penalty
    b. Standard bushel—[white] potatoes
    c. Standard bushel—onions
9. Grain; specifically: barley, buckwheat, corn, oats, rye, and wheat
    a. Standard bushel
10. Hay and straw—baled
    a. To be marked with gross and net weight.—Penalty
    b. Misdemeanor fraudulently to increase weight by inclusion of any concealed or exposed matter.—Penalty
    c. Amount of wood or other material used in baling limited

d. Misdemeanor to mark a bale higher than actual weight; also to exceed legal limit of wood or other material used in baling.—Penalty

11. Lime
    a. Standard bushel measure
12. Lumber used in cooperage
    a. Standard "thousand"
13. Milk and cream
    a. To be sold by liquid measure, weight, or percentage of butter-fat.—Standard gallon
    b. Misdemeanor to sell by other than legally prescribed methods.—Penalty
14. Salt—domestic
    a. Standard barrel
15. Salt—foreign
    a. Standard bushel
16. Wood and bark
    a. Standard cord—dimensions
    b. Standard cord and standard ton—bark

VI. Ordinance (in force) governing the purchase and sale of fruits, berries, and vegetables in market houses and market stands generally
    1. Containers to be marked with capacity in terms of dry measure

VII. Ordinance (in force) governing the purchase and sale of fruits, berries, vegetables, bread, lard, butter, and other provisions in market houses and market stands belonging to the city
    1. Clerks of the markets to condemn incorrect scales, weights, and measures

2. Containers of fruits, berries, and vegetables to be marked with capacity in terms of dry measure
3. Standard bushel for white potatoes and for sweet potatoes
4. Use of steelyards and spring balances forbidden.—Penalty
5. Misrepresentation of true weight or measure of bread, lard, butter, or other provisions forbidden.—Penalty

VIII. Laws (obsolete) governing the purchase and sale of specific commodities
1. Beer and ale
a. To be sold by English beer measure except when drunk in inns or taverns
2. Biscuit intended for interstate commerce
a. Standard keg.—Penalty

IX. Laws and ordinances intended to govern the purchase and sale of specific commodities, but inoperative, wholly or in part, because of lack of specific administrative agents required for their enforcement
1. Coal—anthracite
a. Standard ton
b. Inspection districts established in Philadelphia
c. Governor, councils, and mayor to appoint inspectors
d. Candidates for inspector to have no interest in coal mining or trade
e. Inspectors to stamp or brand delivery vehicles with capacity
f. Unlawful to use unbranded vehicles or to change capacity of branded vehicles

g. Inspectors may arrest
h. Inspectors may test weight of loads.—Penalty
i. Inspectors to notify dealers of short weight
j. Retail dealers subject to fine for short weight, or for use of unbranded vehicle
k. Salary of inspectors.—Inspectors to be sworn
l. Tax on retail dealers
m. Inspection fees
n. Retail dealers to furnish delivery tickets showing quantity of each load.—Penalty
o. Procedure for recovery of penalties

2. Grain and salt—imported
   a. Governor to appoint measurer of corn and salt
   b. Measurer of corn and salt to measure imported grain and salt
   c. Measurer of corn and salt may remove deputies
   d. Buyers to receive certificates of weight
   e. Fees
3. Lime
   a. Standard bushel measure
   b. Courts to appoint officials to brand bushel measures.—Penalty
4. Marble
   a. Governor to appoint measurer of marble
5. Wood
   a. Standard cord.—Penalties

X. Laws and ordinances intended to govern the purchase and sale of fruits, berries, vegetables, and bread in market houses and market stands belonging

to the city, but inoperative, wholly or in part, because of lack of official sealers of weights and measures

1. Clerks of the markets to test weights of loaves of bread.—Penalty
2. Clerks of the markets to test accuracy of marks setting forth, in terms of dry measure, the capacity of containers of fruits, berries, and vegetables.—Penalty
3. Sales to be made only by legally regulated and stamped weights and measures and by accurate scales.—Penalty

XI. General penal provisions, inoperative in Philadelphia because of lack of official sealers of weights and measures

1. For failure to comply with recommendations of sealers, or for selling by false beams, scales, weights, or measures
2. For offering for sale any unsealed dry measures
3. For altering sealed measure, or selling by the same
4. Appeals
5. Disposition of fines

Table of Statutes (Pamphlet Laws)

(References are to sections)

1705, 79
1785, 22 Sept., 103-105, 112
1789, 12 Mar., 80, 80 n.
1794, 22 Apr., 103 n.
1797, 1 Apr., 36, 119
1817, 10 Mar., 69-70, 117-118
1818, 10 Mar., 55, 68
1819, 23 Mar., 63, 113-115
1821, 27 Mar., 109, 111
1822, 2 Apr., 41-42
1834, 15 Apr., 1-15, 17, 24
1836, 16 June, 106-107
1838, 14 Apr., 16, 116
1842, 18 Mar., 124
12 Apr., 110
1843, 29 Sept., 20
1845, 15 Apr., 18-19, 21-23, 25, 123
16 Apr., 55 n., 56
1846, 21 Apr., 125-127
1849, 23 Mar., 47
1850, 11 Apr., 51
26 Apr., 26, 26 n.
1854, 2 Feb., 27
1864, 27 Apr., 64
1866, 11 Apr., 50
1867, 12 Apr., 108
1871, 27 May, 43, 81-85, 87-88, 91-93, 95-96, 96 n., 98-100
1872, 3 Apr., 86, 89-90, 94, 97, 101-102, 102 n.
1876, 3 May, 31
8 May, 60
1877, 24 Mar., 67
1878, 18 May, 48-49, 49 n.
1883, 8 Mar., 123 n.
17 May, 34 n., 73 n.
5 June, 35
1885, 1 June, art. 28-30, 42 n., 118 n., 120 n., 127 n.
1891, 12 May, 37, 37 n.
1 June, 52 n., 53, 53 n., 71, 75 n.
1895, 8 May, 54, 54 n.
24 June, 40, 40 n.
26 June, 44-46, 46 n., 81 n.
1897, 30 Mar., 57, 57 n.
1901, 11 Apr., 59, 61-62, 62 n.
1903, 8 Apr., 30, 30 n., 42 n., 118 n., 120 n., 127 n.
1907, 15 Apr., 65-66, 66 n.

Constitution, 39 n., 45 n., 51 n., 90 n., 111 n., 114 n., 115 n., 118 n., 125 n.

Table of Ordinances

(References are to sections)

1854, 19 Oct., 32-34, 73
1857, 17 Nov., 52
1858, 1 Oct., 72, 74-75, 120
1864, 23 Sept., 38-39, 38 n.
1865, 12 Dec., 76-78, 78 n., 121-122, 122 n.
1869, 19 July, 39 n.
1875, 31 Dec., 58
1888, 22 Mar., 32 n., 33 n.

I. STANDARDS OF WEIGHTS AND MEASURES

1. Linear Measure

§1a. The standard unit of all measures of length, shall be the "yard", *to conform to that in use in this commonwealth at the date of the declaration of independence: the positive standard to be obtained as hereinafter described,*[1] and one-third of said yard shall be one foot, and one twelfth of said foot shall be one inch.—15 Apr., 1834, §1, P. L. 525.

2. Liquid and Dry Measures

§2a. The standard of liquid measure shall be the gallon, to contain two hundred and thirty-one cubic inches, of the standard aforesaid, and no more; and the standard of dry measure shall be the bushel, to contain two thousand one hundred and fifty cubic inches and forty-two hundredths of a cubic inch, of the standard aforesaid, and no more.—15 Apr., 1834, §2, P. L. 525.

3. Weight

§3a. The standard of weight shall be a pound, to be computed upon the troy pound of the mint of the United States, referred to in the act of congress of the nineteenth of May, one thousand eight hundred and twenty-eight,[2] to wit: the troy pound of this commonwealth, shall be equal to the troy pound of the mint aforesaid, and the avoirdupois pound of this commonwealth shall be greater than the troy pound aforesaid, in the proportion of seven thousand to five thousand seven hundred and sixty.—15 Apr., 1834, §3, P. L. 525.

[1] Obsolete.

[2] C. 67, §2, 4 Statutes at Large, 278, re-enacted by the act of 12 Feb., 1873, c. 131, §49, 17 Statutes at Large, 432.

II. DENOMINATIONS

1. Linear Measure

§4a. The denominations of linear measure of this commonwealth, whereof the yard as heretofore provided is the standard unit, with the relations thereof, shall be as follows:

Twelve inches make one foot.
Three feet make one yard.
Five and a half yards make one rod, pole or perch.
Forty rods make one furlong.
Eight furlongs make one mile.

—15 Apr., 1834, §12, P. L. 527.

2. Superficial Measure

§5a. The denominations of superficial measure of this commonwealth, whereof the square of the linear yard as heretofore provided is the standard unit, with the relations to said standard and to each other, shall be:

Thirty and one-fourth square yards make one pole or perch.
Forty square poles make one rood.
Forty square roods make one acre.
Six hundred and forty acres make one square mile.

—15 Apr., 1834, §13, P. L. 527.

3. Liquid Measure

§6a. The denominations of liquid measure of this commonwealth, whereof the gallon as heretofore provided is the standard unit, with the relations to said unit and to each other, shall be:

Four gills make one pint.
Two pints make one quart.
Four quarts make one gallon.

Thirty-one and a half gallons make one barrel.
Two barrels make one hogshead.
Two hogsheads make one pipe.
Two pipes make one tun.

—15 Apr., 1834, §14, P. L. 527.

4. Dry Measure

§7a. The denominations of dry measure of this commonwealth, whereof the bushel as heretofore provided is the standard unit, with the relations to such standard and to each other, shall be:

Four pecks make one bushel.

And the minor divisions of the peck shall be its aliquot parts: Provided, That the form of the dry measure shall be conical; that the diameter of the circle of the top of the measure shall be not less than one-twentieth greater than the diameter of the bottom of the measure, and the height not more than nine-twelfths of the diameter of the bottom.—15 Apr., 1834, §15, P. L. 527.

5. Weight—Troy

§8a. The denominations of weight of this commonwealth, whereof the troy pound as heretofore provided is the standard weight, with the relations thereof to said standard and to each other, shall be:

Twenty-four grains make one pennyweight.
Twenty pennyweights make one ounce.
Twelve ounces make one pound.

—15 Apr., 1834, §16, P. L. 528.

6. Weight—Avoirdupois

§9a. The denominations of weight of this commonwealth, whereof the pound avoirdupois as heretofore provided is the standard weight, with the relations to said pound and to each other, shall be:

Sixteen drams make one ounce.
Sixteen ounces make one pound.
Twenty-five pounds make one quarter.
Four quarters make one hundred.
Twenty hundreds make one ton.

—15 Apr., 1834, §17, P. L. 528.

III. ADMINISTRATIVE AGENTS WHO ARE AUTHORIZED OR REQUIRED (BY EITHER GENERAL OR SPECIFIC ORGANIC PROVISIONS) TO ACT IN MATTERS CONCERNING WEIGHTS AND MEASURES

1. Governor

a. To Provide Standards

§10 1) It shall be the duty of the governor of this commonwealth to procure, within three years from the date of the passage of this act, a standard yard, to constitute the positive standard of length in this commonwealth, *said standard to be equal in length, at the temperature of melting ice, to the distance between the eleventh and forty-seventh inches on a certain brass scale of eighty-two inches in length, procured for the survey of the coast of the United States and now deposited in the war department:*[1] the material of said standard to be brass, and the divisions upon it to be inches and parts of an inch of the brass scale aforesaid.—15 Apr., 1834, §4, P. L. 525.

§11 2) It shall be the duty of the governor to procure, within three years after the passage of this act, for the use of this commonwealth, a standard gallon and bushel, to conform to the provisions of section second of this act, the material of said standard to be of cast brass. —15 Apr., 1834, §5, P. L. 526.

[1] Obsolete

§12 3) It shall be the duty of the governor of this commonwealth to procure, within three years after the passage of this act, a duly authenticated copy of the troy pound of the mint of the United States, to constitute the positive standard of weight of this commonwealth, the material of said standard to be brass.—15 Apr., 1834, §6, P. L. 526.

§13 4) It shall be the duty of the governor of this commonwealth to have the positive standards of measures, of length and capacity, and of weight, provided by the foregoing sections, inclosed in suitable cases and deposited in the office of the secretary of the commonwealth, to be by him there carefully preserved.—15 Apr., 1834, §7, P. L. 526.

§14 5) It shall be lawful for the governor of this commonwealth, when he shall deem it expedient to have tested the conformity of said positive standards of measure and weight, to the foregoing provisions of this act, or to the natural invariable standards hereinafter provided, and if congress shall at any time hereafter establish standards of weight and measure, the standards aforesaid shall be made to conform thereto.—15 Apr., 1834, §8, P. L. 526.

§15 6) It shall be the duty of the governor, within ten years after the passage of this act, to cause the positive standards herein described, to be referred to natural invariable standards and to deposit in the office of the secretary of the commonwealth, the authentic certificates of such reference with the apparatus by which it was made, the length of the standard yard to be compared with that of the pendulum vibrating seconds, at a certain and defined spot in the Independence Square, in the city of Philadelphia, or in some unalienable public property, at an ascertained and convenient temperature and

pressure, all the circumstances of the comparison to be stated, the standard of weight to be compared with that of one hundred standard cubic inches of water, at its maximum density, and at a convenient atmospheric pressure.—15 Apr., 1834, §11, P. L. 527.

§16 7) The governor of this commonwealth . . . is hereby authorized, to have prepared standards of weight, measure and capacity, specified in the act of assembly, passed April fifteenth, one thousand eight hundred and thirty-four [To fix the standards and denominations of measure and weights, in the commonwealth of Pennsylvania.—P. L. 525.]; and . . . he be [is] authorized to carry into effect the provisions of the said act as soon as practicable.—14 Apr., 1838, §23, P. L. 399.

b. To Furnish Copies of Standards to County Commissioners

§17 1) It shall be the duty of the governor to provide, within three years after the passage of this act, for each of the counties of this commonwealth, at the charge of the counties respectively, positive standards of measures of length, of capacity and of weight of the several denominations in common use or such of them as may be necessary for the accurate and convenient adjustment of weights and measures, said standards to be of approved construction carefully compared with the state standards aforesaid, and made of the same material, and having caused the same to be duly stamped, to have them delivered to the commissioners of the counties respectively, to be used as standards for the adjusting of weights and measures, and for no other purpose.—15 Apr., 1834, §9, P. L. 526.

§18 2) Copies of [the] original standards, for general use, to be made of such materials as the governor and the . . . secretary [of the commonwealth] shall di-

rect, shall be transmitted by them, on application therefor to the county commissioners of each county in this commonwealth, at the expense of the several counties to which the same are sent, and not otherwise.—15 Apr., 1845, §2, P. L. 443.

2. Secretary of the Commonwealth

a. To Have Custody of Standards

§19 1) The original standards of weights and measures furnished by the United States,[1] and now in the office of the secretary of the commonwealth, shall remain in the case provided for that purpose, which shall only be opened under the direction of the governor or the said secretary, for the sole purpose of comparing such standards with the copies hereinafter described, unless by a joint resolution of the two houses of the legislature, or on the call of either house, or by permission of the governor, for scientific purposes.—15 Apr., 1845, §1, P. L. 443.

b. To Furnish Copies of Standards to County Commissioners

§20 1) The secretary of the commonwealth be [is] authorized and directed to procure, as soon as practicable, suitable cases for the standards of weights and measures now in his office, and to prescribe and publish the terms upon which standards of approved construction, carefully compared with the state standards aforesaid, shall be furnished to the commissioners of the several counties of the commonwealth, according to the directions of the act of fifteenth April, eighteen hundred and thirty-four, entitled "An act to fix the standards and denominations of measures and weights in the commonwealth of Pennsylvania" [P. L. 525.].—29 Sept., 1843, §2, P. L. (1844) 7.

[1] 14 June, 1836, 5 Statutes at Large, 133.

§21 2) Copies of [the] original standards, for general use, to be made of such materials as the governor and the said secretary shall direct, shall be transmitted by them, on application therefor to the county commissioners of each county in this commonwealth, at the expense of the several counties to which the same are sent, and not otherwise.—15 Apr., 1845, §2, P. L. 443.

§22 3) The said secretary shall cause to be impressed on each of the copies of such originals the letters "Pa.", and such other additional device as he shall direct for the particular county, which device shall be recorded in the secretary's office and a copy thereof transmitted to the respective county commissioners.—15 Apr., 1845, §3, P. L. 443.

3. County Commissioners

a. May Apply for Copies of Standards

§23 1) Copies of [the] original standards, for general use, to be made of such materials as the governor and the . . . secretary [of the commonwealth] shall direct, shall be transmitted by them, on application therefor to the county commissioners of each county in this commonwealth, at the expense of the several counties to which the same are sent, and not otherwise.—15 Apr., 1845, §2, P. L. 443.

b. To Maintain Accuracy of Copies of Standards

§24 1) It shall be the duty of the commissioners of the respective counties, at least once in every ten years and oftener if they have reason to believe it necessary, to cause the standards of the respective counties to be examined and tried, and if necessary, to be corrected or renewed according to the standards of the commonwealth heretofore referred to.—15 Apr., 1834, §10, P. L. 526.

§25 2) It shall be the duty of the county commissioners receiving such standards as aforesaid, and their successors in office, in every five years, and oftener if they shall have reason to believe it necessary, to cause such standards so received by them or their predecessors in office, to be tried and examined, to be corrected or renewed, so as to conform exactly to the standards prepared according to act of congress, and deposited in the office of the secretary of the commonwealth as aforesaid.—15 Apr., 1845, §3, P. L. 443.

c. To Establish True Meridian Lines and Fixed Standard Measures for Surveyors' Chains

§26 1) The county commissioners of the several counties of this commonwealth are hereby authorized and directed, within two years from and after the passage of this act, to cause to be marked and established on some inalienable property belonging to the county, or on such property as the commissioners of the county may hereafter acquire for that purpose, at or near the seat of justice of the several counties, a true meridian line, and a fixed standard measure, of two or four-pole chain, agreeing with and made after the measure of the standard yard now in the office of the secretary of the commonwealth; and the cost whereof to be paid out of the respective county treasuries.[1]—26 Apr., 1850, §1, P. L. 595.

[1] When the said true meridian lines, and the measures of the said standard two or four-pole chain, shall have been so marked and established as aforesaid, the said county commissioners shall give public notice thereof, in one or more newspapers of their respective counties, or otherwise, for at least three successive weeks; and it shall be the duty of every land surveyor in this commonwealth, after such notice has been given as aforesaid, in the month of April in each year, to adjust and verify his compass by one of the said meridian lines, and to ascertain the variation of its needle from the true meridian, and his chain by one of the said measures of the said standard two or four-pole chain; and the said surveyors shall thereafter, in all their returns of surveys, or writings concerning surveys of land and lines run by the compass, note the bearings or courses of such surveys and lines, so as to show the true, and not the magnetic bearing, together with the date of such survey or tracing of lines.—26 Apr., 1850, §2, P. L. 595.

Any surveyor, after notice given as required by the provisions of this act, who shall neglect or refuse to comply with the requirements of this act, by making any survey with an unadjusted compass or chain, he shall, for every such neglect or refusal, pay the sum of ten dollars, on complaint made by any person interested in such survey, before the justice of the peace [magistrate in Philadelphia.—Constitution, 1874, art. 5, §12] nearest to the tract or lot of land

4. Mayor of Philadelphia

a. To Cause Laws and Ordinances to be Enforced

§27 1) It shall be the mayor's duty . . . to be vigilant and active in causing the laws and ordinances of the city to be duly executed; for which purpose . . . all policemen and watchmen shall obey his orders, and make a report to him when acting under his orders, and he shall exercise a constant supervision and control over the conduct of all subordinate officers, receive and examine all complaints preferred against them, and generally perform all such duties as may be prescribed by the laws and ordinances of said city and of this commonwealth.—2 Feb., 1854, §7, P. L. 26.

§28 2) It shall be the duty of the mayor to cause the ordinances of the city and the laws of the state to be executed and enforced.—1 June, 1885, art. 1, P. L. 38.

b. May Recommend Measures to Councils

§29 1) It shall be the duty of the mayor to recommend by message in writing to the councils all such measures connected with the affairs of the city and the protection and improvement of its government and finances as he shall deem expedient.—1 June, 1885, art. 1, P. L. 38.

5. Director of the Department of Public Safety

a. Responsible for Police Affairs and for Inspection of Markets

§30 1) The department of public safety shall be under the charge of one director who shall be the head thereof.

---

so surveyed, to be recovered as debts of like amount are by law recoverable; one-half thereof to the person making the complaint, and the other half to the treasurer of the school district in which such survey is made, for the use of said district.—26 Apr., 1850, §3, P. L. 595.

It shall be the duty of the commissioners of the several counties aforesaid to procure a book to be kept in their office; and every surveyor, on having adjusted his chain and compass as aforesaid, shall enter therein the variation of his compass from the true meridian, whether east or west, and the day on which he adjusted his chain and compass, and shall subscribe his name thereto, for future reference.—26 Apr., 1850, §4, P. L. 596.

The care, management, administration and supervision of the police affairs, and all matters relating to . . . the inspection of . . . markets and food sold therein . . . shall be in charge of this department.—1 June, 1885, art. 3, P. L. 40; 8 Apr., 1903, §3,[1] P. L. 156.

6. Police Officers and Constables in Philadelphia

a. May Arrest Without Warrant for Violation of Any Ordinance

§31 1) Any police officer or constable, upon view of the breach of any ordinance of any city of the first class, is authorized to forthwith arrest the person or persons so offending, without any process, and to take such person or persons forthwith before any police magistrate . . . of said city, who shall thereupon require bail for the appearance of said person at a time to be fixed for the hearing of said charge, and in default of bail to commit for a hearing; and at said hearing the case shall be proceeded with as if the parties were appearing before said magistrate . . . upon a summons duly issued and returned served, or if both parties desire it the case may be entered and determined by the magistrate . . . in like manner, without requiring bail or further continuance.—3 May, 1876, P. L. 99.

7. Chief of the Bureau of City Property

a. To Care for all Market Houses Belonging to the City

§32 1) [The chief of the bureau of city property][2] shall be charged with the . . . care of all market houses belonging to the corporation.—19 Oct., 1854, §1, O. 113.

[1] Repeal clause, section 5.
[2] 22 Mar., 1888, §3, O. 192.

b. May Prescribe Duties of Clerks of the Markets

§33 1) There shall be in [the bureau of city property][1] . . . clerks of markets . . . who shall . . . perform such . . . duties as may be specified by the head of the [bureau][1].—19 Oct., 1854, §9, O. 115.

8. Clerks of the Markets

a. To Examine Provisions (With Certain Exceptions) in the Market Houses and Market Stands Belonging to the City; to Condemn Inaccurate Scales, Weights, and Measures; and to Prosecute

§34 1) The . . . clerks of the markets shall do and perform all things belonging to their office, and shall have possession, enjoy and exercise all the powers and authorities which, by any law or act of assembly, are conferred upon the clerks of the markets. They shall attend, within their respective market limits, from the beginning to the end of the market hours, and at such other times as may be necessary; they shall enforce all the laws, ordinances and regulations relative thereto, and seize and prosecute for all breaches thereof; . . . they shall weigh, try and examine all bread . . . [2]or other provisions sold in loaves, lumps, or parcels purporting to be of a given or accustomed weight or measure; and all scales, weights and measures, which are found in the markets not correct to the standard, shall be forfeited; they shall not accept or take from any person attending the markets any fee, donation, perquisite or reward on any pretense whatever.—19 Oct., 1854, §10, O. 116.

[1] 22 Mar., 1888, §1, O. 191.
[2] Repealed as to butter, lard, and sausage.—17 May, 1883, P. L. 34.

UNIV. OF CALIFORNIA

IV. LAW GOVERNING THE PURCHASE AND SALE OF COMMODITIES IN GENERAL

1. Misdemeanor Wilfully to Sell by False Beams, Scales, Weights, and Measures—Penalty

§35a. Any person or persons who shall wilfully use and sell by false beams, scales, weights and measures, any article, merchandise, commodity or thing, shall be guilty of a misdemeanor, and on being convicted thereof, shall be sentenced to pay a fine not exceeding two hundred dollars, and to undergo an imprisonment not exceeding three months, or both, or either, at the discretion of the court.—5 June, 1883, P. L. 78.

V. LAWS AND ORDINANCES (IN FORCE) GOVERNING THE PURCHASE AND SALE OF SPECIFIC COMMODITIES, OR CLASSES OF COMMODITIES

1. Bread

a. To be Sold by the Pound Avoirdupois—Penalty

§36 1) All loaf-bread made for sale, within this commonwealth, shall be sold by the pound avoirdupois, . . . and if any baker or other person shall . . . sell or offer for sale any loaf-bread, in any other manner, the contract respecting the same shall be void, and the person offending against this act shall, on conviction, forfeit and pay the sum of ten dollars for every such offence, one-half to the use of the informer, and the other half to the use of this commonwealth.[1]—1 Apr., 1797, §2, 3 Smith's Laws, 295.

[1] This act is in force.—Johnson v. Kolb, 3 W. N. C., 273. (1876.)

2. Charcoal

a. Standard Bushel—Penalty

§37 1) The standard measure of charcoal shall be two thousand five hundred and seventy-one cubic inches for each and every bushel thereof, and when sold by weight a bushel shall be eighteen pounds (commercially dry) for all hard wood, and fifteen pounds (commercially dry) for all soft wood.[1]—12 May, 1891, §1, P. L. 51.

§38 2) The following are hereby declared to be nuisances (23 Sept., 1864, §1, O. 357.): To unload, discharge, or deliver charcoal in or on any of the streets of the city,[2] from any wagon or other vehicle, except in barrels of the capacity of a common flour barrel, or in some measure whose capacity is fixed by law.—23 Sept., 1864, §25, O. 360.

§39 3) Any person violating any provision of this ordinance shall forfeit the sum of [five][3] dollars, to be recovered before the [magistrate][4] whose office is located nearest the place where such violations occurred, at the suit of the city of Philadelphia, for the use of the city; and every [magistrate][4] of the city shall keep a separate docket for such cases, which shall always be open for the inspection of the mayor, city controller, city solicitor and his assistants, and committees of councils.—23 Sept., 1864, §41, O. 362.

---

[1] Repeal clause, section 2.

[2] The provisions of the [25th] section of this ordinance . . . shall apply and extend to the 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th and 20th wards of the city, and to that portion of the 1st ward east of Broad street and north of Mifflin street, including said Broad and Mifflin streets; to that portion of the 21st ward, formerly comprised within the late borough of Manayunk; to that portion of the 22d ward, formerly comprised within the borough of Germantown; to those portions of the 23d ward, formerly comprised within the late boroughs of Frankford, Bridesburg and Whitehall; and to that portion of the 24th ward, formerly comprised within the late district of West Philadelphia.—23 Sept., 1864, §40, O. 361.

[3] 19 July, 1869, §4, O. 323.

[4] Constitution, 1874, art. 5, §12.

3. Clover Seed

a. Standard Bushel

§40 1) The standard weight of a bushel of clover seed shall be sixty pounds.[1]—24 June, 1895, §1, P. L. 243.

4. Coal—Anthracite

a. Standard Bushel—Penalty

§41 1) Stone coal brought from any mine situate within the state of Pennsylvania, to the city or county of Philadelphia, for sale, shall be disposed of by weight or by the bushel measure, and if by the latter, each bushel shall weigh at least eighty pounds; and so when the same is re-sold, whether by wholesale or retail, it shall in like manner be sold by weight or measure, if by the latter, the bushel shall contain at least eighty pounds, and in the same proportion for any greater or less measure.—2 Apr., 1822, §1, P. L. 139. (7 Smith's Laws, 554.)

§42 2) If any person or persons selling coal by the bushel, or by any greater or less measure, shall not give at least eighty pounds for each bushel so sold, and so in proportion for any greater or less measure, such person or persons shall for every such offence forfeit and pay five dollars, to be recovered in the same manner as debts for the same amount are by law recoverable, one half to be paid to the guardians or overseers of the poor of the city [department of public health and charities in Philadelphia],[2] district or township, where the offence is committed, and the other half to the person prosecuting for the same.—2 Apr., 1822, §2, P. L. 139. (7 Smith's Laws, 555.)

[1] Repeal clause, section 2.

[2] 1 June, 1885, art. 10, P. L. 48, art. 15, P. L. 58; 8 Apr., 1903, §2, P. L. 156.

b. Standard Ton—Penalty

§43 1) The legal standard ton for anthracite coal shall be two thousand two hundred and forty pounds avoirdupois weight.—27 May, 1871, §1, P. L. 1287.

§44 2) Two thousand two hundred and forty pounds avoirdupois shall make and constitute a legal ton of anthracite coal throughout this commonwealth in all transactions between retail coal dealers and their customers.—26 June, 1895, §1, P. L. 334.

§45 3) Any person, firm or corporation guilty of violating the provisions of section one of this act, whereby it is attempted to sell less than two thousand two hundred and forty pounds to a ton, or a proper proportion thereof to quantities less than a ton, shall, upon conviction thereof before any justice of the peace or alderman [magistrate in Philadelphia][1], after hearing on complaint made, shall be liable to a penalty of not exceeding fifty dollars, recoverable as like penalties are within this commonwealth: Provided, that in all cases forty pounds shall be allowed for the variation in scales.—26 June, 1895, §2, P. L. 334.

§46 4) All fines recovered under this act shall be paid to the treasurer of the county wherein the action is brought.[2]—26 June, 1895, §3, P. L. 334.

5. Coal—Bituminous

a. Standard Bushel

§47 1) The standard bushel for the measurement of bituminous coal shall . . . contain two thousand six hundred and eighty-eight cubic inches even measure.[3] —23 Mar., 1849, §1, P. L. 217.

[1] Constitution, 1874, art. 5, §12.
[2] Repeal clause, section 4.
[3] See following section.

b. Standard Bushel and Standard Ton—Penalty

§48 1) The standard weight of bituminous coal in this commonwealth shall be seventy-six pounds to the bushel, and two thousand pounds shall be one ton.—18 May, 1878, §1, P. L. 67.

§49 2) If any person or persons, engaged in the business of mining bituminous coal, shall fix or establish, or shall attempt to fix or establish, any other number of pounds, by agreement or contract to be a bushel of bituminous coal, than as is provided for in the first section of this act, such person or persons shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not less than five hundred and not exceeding one thousand dollars, and all penalties recovered under this act shall be paid into the treasury of the state.[1]—18 May, 1878, §2, P. L. 67.

6. Coke

a. Standard Bushel

§50 1) The standard measure of coke, manufactured from bituminous coal, when sold by the bushel, shall be two thousand six hundred and eighty-eight cubic inches, and the standard weight, per bushel, shall be forty pounds.[2]—11 Apr., 1866, P. L. 98.

7. Dry Goods and Groceries

a. Misrepresentative Markings and Misstatements of Numerical Count or of Net Weight—Penalty

§51 1) Whenever any description of manufactured goods, commonly called dry goods or groceries, shall be sold by the piece in packages, or by weight, and the said pieces or packages shall be marked or represented to contain a

[1] Repeal clause, section 3.
[2] Title: "An act fixing a standard measure of coke in the bituminous counties of this state." Query, application to Philadelphia?

certain number of yards, pounds or ounces, and the same shall be sold as containing that number or weight, when in fact the said pieces or packages shall contain a less number of yards, or pounds or ounces, than so represented, the seller or manufacturer thereof shall forfeit and pay to the purchaser a sum equal to double the value of the quantity or weight found to be deficient, to be recovered by action of debt, in any court of law, or before any alderman or justice of the peace in this commonwealth [magistrate in Philadelphia],[1] in the same manner that debts of like amount are now by law recoverable.—11 Apr., 1850, §8, P. L. 452.

8. Fruits and Vegetables in General; and Specifically: Apples, Peaches, Pears, Plums, Onions, Potatoes, and Tomatoes

a. To be Sold by Dry Measure—Penalty

§52 1) It shall not be lawful for any person or persons to sell within the limits of the . . . city any potatoes, tomatoes, peaches, pears, plums, apples, or other fruits or vegetables requiring measurement, by any other measure than the bushel and its divisions, and each bushel of white potatoes to weigh [fifty-six][2] pounds to the bushel, and 50 pounds for sweet potatoes, to the bushel; and for each and every sale hereafter made by the basket, or by any other measure or measures than those herein designated, the person or persons making the same shall forfeit and pay the sum of five dollars, to be recovered by suit in the name of the city of Philadelphia, in like manner as similar amounts are now recoverable by law —one-half to be paid into the city treasury and the other half to the person or persons prosecuting for the same. —17 Nov., 1857, O. 364.

[1] Constitution, 1874, art. 5, §12.

[2] 1 June, 1891, P. L. 160. This act, which is entitled "An act regulating the standard weight of a bushel of potatoes," makes no mention of *sweet* potatoes.

b. Standard Bushel—[White] Potatoes

§53 1) The weight of a bushel of potatoes shall be fifty-six[1] pounds.[2]—1 June, 1891, §1, P. L. 160.

c. Standard Bushel—Onions

§54 1) The weight of a bushel of onions shall be fifty pounds.[3]—8 May, 1895, §1, P. L. 55.

9. Grain; Specifically: Barley, Buckwheat, Corn, Oats, Rye, and Wheat

a. Standard Bushel

§55 1) The several kinds of grain hereafter mentioned, which are now usually bought and sold by measure, shall . . . be regulated according to the following weight per bushel, to wit: the weight of each bushel of wheat shall be sixty pounds; of each bushel of rye or corn, fifty-[six][4] pounds; of each bushel of barley, forty-seven pounds; of each bushel of buckwheat, forty-eight pounds; and of each bushel of oats, thirty-two pounds: Provided, That nothing in this act contained shall be so construed as to prevent any person or persons from selling and buying the several kinds of grain aforesaid by measure.—10 Mar., 1818, §1, P. L. 182. (7 Smith's Laws, 79.)

§56 2) The standard weight of rye and Indian corn in this commonwealth shall be fifty-six pounds for each and every bushel thereof.—16 Apr., 1845, §1, P. L. 45.

§57 3) The weight of a bushel of oats shall be thirty-two pounds.[5]—30 Mar., 1897, §1, P. L. 10.

[1] See note to preceding section.
[2] Repeal clause, section 2.
[3] Repeal clause, section 2.
[4] 16 Apr., 1845, §1, P. L. 45. See following section.
[5] Repeal clause, section 2.

10. Hay and Straw—Baled

a. To be Marked With Gross and Net Weight—Penalty

§58 1) It shall not be lawful for any person to offer or sell or offer for sale within the city of Philadelphia any hay or straw by the bale unless the exact gross and net weight shall be legibly and distinctly marked on every such bale of hay or straw, under penalty of ten dollars for each bale of hay or straw so sold or offered for sale, in contravention of the provisions of this ordinance.—31 Dec., 1875, O. 485.

§59 2) All baled hay and straw shall be properly bound with wire, rope or other material to hold it in bundle, and the correct weight shall be plainly marked on each bale.—11 Apr., 1901, §1, P. L. 77.

b. Misdemeanor Fraudulently to Increase Weight by Inclusion of any Concealed or Exposed Matter—Penalty

§60 1) Any person or persons within this commonwealth who shall sell or cause to be sold or exchanged in any manner whatsoever, baled hay, straw or other material of a like nature by weight and shall include in the weight of said baled hay, straw or other substance of a similar nature any concealed or exposed matter for the purpose of increasing the weight, shall be guilty of a misdemeanor, and on being convicted thereof shall be fined not exceeding one hundred dollars and imprisoned not exceeding six months, either or both, at the discretion of the court.—8 May, 1876, P. L. 136.

c. Amount of Wood or Other Material Used in Baling Limited

§61 1) The wood or other material used in baling cut hay shall not exceed in weight eight per centum of the weight

of the entire bundle, and no wood, except for a marking block, shall be used in baling long hay or straw.—11 Apr., 1901, §2, P. L. 77.

d. Misdemeanor to Mark a Bale Higher than Actual Weight; Also to Exceed Legal Limit of Wood or Other Material Used in Baling—Penalty

§62 1) Any person who shall mark a bale of hay or straw higher than its actual weight, or who shall use more than eight per centum of its weight of wood or other material to hold it in bundle, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars, in the discretion of the court before whom conviction may be secured.[1]—11 Apr., 1901, §3, P. L. 77.

11. Lime

a. Standard Bushel Measure

§63 1) The bushel used for the measuring of lime in the city and county of Philadelphia, . . . shall be of the following dimensions, to wit: thirteen inches and a half in diameter at the bottom in the clear, fifteen inches diameter at the top in the clear, and thirteen inches and forty-seven hundredths perpendicular depth in the clear. —23 Mar., 1819, §1, P. L. 150. (7 Smith's Laws, 192.)

12. Lumber Used in Cooperage

a. Standard "Thousand"

§64 1) It shall not be lawful for any person, or persons, engaged in the business of purchasing, collecting, or furnishing, shingles, or hoop-poles, shaved hoops, straps, shucks, staves, and heading, of any kind of material whatsoever, used in the manufacture of wooden vessels,

[1] Repeal clause, section 4.

to demand, or deliver, more than ten hundred pieces in number, for one thousand; and that when any, or either, of the above mentioned articles of lumber be purchased, or sold, by the thousand, it shall be so considered, any custom, or usage, to the contrary notwithstanding.—27 Apr., 1864, P. L. 618.

13. Milk and Cream

a. To be Sold by Liquid Measure, Weight, or Percentage of Butter-Fat; Standard Gallon

§65 1) It shall be unlawful for any person, firm, or corporation to sell or offer for sale, or demand from any person offering for sale, either wholesale or retail, within the state of Pennsylvania, any milk, skim-milk, and cream according to any other standard of measurement than that known as the liquid, or wine, measure, containing two hundred and thirty-one cubic inches to the gallon: Provided, That nothing in this act will prevent the sale of milk, skim-milk, and cream by weight or percentage of butter-fat.—15 Apr., 1907, §1, P. L. 63.

b. Misdemeanor to Sell in Other than Legally Prescribed Methods—Penalty

§66 1) Every person, firm, or corporation, and every officer, agent, servant or employe of such person, firm, or corporation, who shall violate any of the provisions of this act; or any person, firm or corporation, and every officer, agent, servant, or employe of such person, firm, or corporation, demanding, offering, and receiving a greater measure than that specified in the first section of this act, shall be deemed guilty of a misdemeanor, and, upon the conviction thereof in the court of quarter session of the proper county, shall be sentenced to pay a fine of not less than twenty-five dollars and not more than one hundred dollars, with costs of prosecution, or un-

dergo imprisonment not exceeding thirty days, or both, at the discretion of the court.[1]—15 Apr., 1907, §2, P. L. 63.

14. Salt—Domestic

a. Standard Barrel

§67 1) All salt manufactured by evaporation, within the limits of this commonwealth, and put in packages purporting to be a barrel, said package shall contain two hundred and eighty (280) pounds of salt, and this exclusive of the weight of the package.—24 Mar., 1877, P. L. 40.

15. Salt—Foreign

a. Standard Bushel

§68 1) Each and every bushel of foreign salt shall be bought and sold by weight per bushel, in the manner following, to wit. The weight of each bushel of coarse salt shall be eighty-five pounds, each bushel of ground salt, seventy pounds, and each bushel of fine salt, sixty-two pounds: Provided, nevertheless, That nothing herein contained shall be so construed as to prevent any person or persons from selling or buying the several kinds of salt aforesaid by measure.—10 Mar., 1818, §2, P. L. 182. (7 Smith's Laws, 79.)

16. Wood and Bark

a. Standard Cord—Dimensions

§69 1) The standard denominations of a cord of wood or bark for fuel, exposed to sale within the city and county of Philadelphia, shall be eight feet in length, four feet in breadth, and four feet in height, containing one hundred and twenty-eight feet, solid measure.—10 Mar., 1817, §1, P. L. 92. (6 Smith's Laws, 414.)

[1] Repeal clause, section 3.

29476—8

§70 2) All cord wood brought to market within the city and county of Philadelphia, shall be at least four feet in length, including one half the kerf, and the cord shall be computed at the rate of eight feet in length, four feet in breadth and four feet in height, while stowed and packed, the straight wood shall be placed or caused to be placed by all venders of cord wood compactly in the lower part of the pile, and the crooked wood in the upper part thereof, and a reasonable and fair allowance shall be made by all . . . venders of wood for the loss sustained by crooked or uneven wood.—10 Mar., 1817, §2, P. L. 92. (6 Smith's Laws, 414.)

b. Standard Cord and Standard Ton—Bark

§71 1) The standard weight of a cord of hemlock, oak or other bark, when sold by the cord or ton, shall be two thousand pounds for each and every cord, and two thousand pounds for each and every ton.—1 June, 1891, P. L. 160.

VI. ORDINANCE (IN FORCE) GOVERNING THE PURCHASE AND SALE OF FRUITS, BERRIES, AND VEGETABLES IN MARKET HOUSES AND MARKET STANDS GENERALLY

1. Containers to be Marked With Capacity in Terms of Dry Measure

§72a. Every basket, box, tub, or other article used for the sale of fruits, vegetables, or berries that require measurement, in market houses, or market stands, shall have the fractional part or parts of a bushel, which said basket, box, or other article will contain, when even-full, labeled, stamped or marked thereon, outside, in plain characters of at least one inch in size.—1 Oct., 1858, §1, O. 359.

VII. ORDINANCES (IN FORCE) GOVERNING THE PURCHASE AND SALE OF FRUITS, BERRIES, VEGETABLES, BREAD, LARD, BUTTER, AND OTHER PROVISIONS IN MARKET HOUSES AND MARKET STANDS BELONGING TO THE CITY

1. Clerks of the Markets to Condemn Incorrect Scales, Weights, and Measures

§73a. The . . . clerks of the markets shall do and perform all things belonging to their office, and shall have possession, enjoy and exercise all the powers and authorities which, by any law or act of assembly, are conferred upon the clerks of the markets. They shall attend, within their respective market limits, from the beginning to the end of the market hours, and at such other times as may be necessary; they shall enforce all the laws, ordinances and regulations relative thereto, and seize and prosecute for all breaches thereof; . . . they shall weigh, try and examine all bread . . . [1] or other provisions sold in loaves, lumps, or parcels purporting to be of a given or accustomed weight or measure; and all scales, weights and measures, which are found in the markets not correct to the standard, shall be forfeited; they shall not accept or take from any person attending the markets any fee, donation, perquisite or reward on any pretense whatever.—19 Oct., 1854, §10, O. 116.

2. Containers of Fruits, Berries, and Vegetables to be Marked With Capacity in Terms of Dry Measure

§74a. Every basket, box, tub, or other article used for the sale of fruits, vegetables, or berries that require measurement, in market houses, or market stands, shall have the

[1] Repealed as to butter, lard, and sausage. 17 May, 1883, P. L. 34.

fractional part or parts of a bushel, which said basket, box, or other article will contain, when even full, labeled, stamped or marked thereon, outside, in plain characters of at least one inch in size.[1]—1 Oct., 1858, §1, O. 359.

3. Standard Bushel for White Potatoes and for Sweet Potatoes

§75a. Whenever any potatoes shall be sold within said limits [market houses or market stands], by the bushel or its divisions, and any controversy shall arise between the parties as to the accuracy or truth of the measurement, or if any dispute should arise between the clerk and any party whilst testing the correctness of the stamps or marks, as to the proper heaping of the measure, the question shall be decided by weight, allowing [fifty-six][2] pounds of white potatoes to the bushel and fifty pounds of sweet potatoes, and in the same proportion for any of the divisions of the bushel.—1 Oct., 1858, §3, O. 359.

4. Use of Steelyards and Spring Balances Forbidden

§76a. No person shall use steelyards or spring balances within the market houses, market places or market limits [belonging to the city.]—12 Dec., 1865, §12, O. 415.

5. Misrepresentation of True Weight or Measure of Bread, Lard, Butter, or Other Provisions Forbidden —Penalty

§77a. No person shall bring to the market houses or market places [belonging to the city] for sale, any bread, lard, butter or other provisions in lumps, loaves or other parcels, as or for a greater weight or measure than the

[1] The power of the clerks of the markets to enforce the ordinance of October 1, 1858, is confined to the public markets.—Warwick's Opinions, 1884: 91.

[2] 1 June, 1891, P. L. 160. This act which is entitled "An act regulating the standard weight of a bushel of potatoes," makes no mention of *sweet* potatoes. See §53 of this digest.

true weight and measure thereof, or shall employ any device for imposition or fraud in the sale of any provisions.—12 Dec., 1865, §13, O. 415.

§78b. Any person or persons who shall be guilty of violating any of the provisions of the above ordinance, shall pay for each and every such offence such fines as are hereafter stipulated, together with the costs thereon to be recoverable as fines are now recoverable by law. The penalties follow:

Section 12 . . . the sum of twenty dollars
" ...13 . . . the sum of five dollars.[1]
—12 Dec., 1865, §119, O. 416.

VIII. LAWS (OBSOLETE) GOVERNING THE PURCHASE AND SALE OF SPECIFIC COMMODITIES

1. Beer and Ale

a. To be Sold by English Beer Measure Except When Drunk in Inns and Taverns

§79 1) Whereas by a law of this province, for regulating the dimensions of casks, etc. it is enacted, among other things, that a barrel shall contain thirty-one gallons wine-measure.[2] And whereas by another law of this province, for regulating of weights and measures, it is, amongst other things, enacted, that none shall sell beer or ale by retail, but by beer-measure, according to the standard of England; by reason whereof the retailers of beer and ale are obliged to sell the same by far greater measure than they buy it: For remedy whereof . . .

All persons which now are, or which at any time or times hereafter shall be, licensed to keep any tavern,

[1] Repeal clause, section 20.
[2] The English ale or beer gallon contained 282 cubic inches; the wine or liquid gallon contains 231 cubic inches.

inn, ale-house or victualling-house, within this province, [commonwealth] shall sell beer and ale by wine-measure to all persons as drink it in their houses, and by beer-measure to all such persons as carry the same out of their houses, under the penalty of ten shillings, to the use of the poor for every county where the offence is committed.—1705, §1, 1 Smith's Laws, 43.

2. Biscuit Intended for Interstate Commerce

a. Standard Keg—Penalty

§80 1) Each and every keg in which biscuit shall be exported from this commonwealth, or therein exposed for exportation, shall contain at least seven pounds of good and merchantable biscuit. And all and every person and persons, who shall . . . export biscuit from this commonwealth, or herein expose the same to sale for exportation, in any keg or kegs, containing a less quantity and inferior quality of biscuit, than is hereby directed, shall forfeit and pay the sum of five shillings for every keg so exported, or exposed to sale for exportation, contrary to the meaning and direction of this act; to be recovered and applied in the manner hereinafter provided and declared.[1]—12 Mar., 1789, §10, (2 Smith's Laws, 478.)

[1] All and singular the forfeitures and penalties in and by this act, or the act to which this is a supplement, set, declared, appointed and imposed, shall be, one-half thereof to the [department of public health and charities.—1 June, 1885, art. 10, P. L. 48, art. 15, P. L. 58; 8 Apr., 1903, §2, P. L. 156.] in the city of Philadelphia, for the use and benefit of the said city, and the districts annexed thereto, and the other half, to the informer, or him, her or them, who will sue for the same, to his, her or their own use and benefit; and if the said forfeitures and penalties be under the sum of ten pounds, the same shall and may be sued for and recovered within this commonwealth, or if the said forfeitures and penalties be above the said sum of ten pounds, the same shall and may be sued for and recovered by bill, plaint or information, in any court of record within this commonwealth, wherein no essoin, protection, or wager of law, nor more than one imparlance shall be allowed.—12 Mar., 1789, §12, 2 Smith's Laws, 479.

IX. LAWS AND ORDINANCES INTENDED TO GOVERN THE PURCHASE AND SALE OF SPECIFIC COMMODITIES, BUT INOPERATIVE, WHOLLY OR IN PART, BECAUSE OF LACK OF SPECIFIC ADMINISTRATIVE AGENTS REQUIRED FOR THEIR ENFORCEMENT

1. Coal—Anthracite

a. Standard Ton

§81 1) Whereas, it has become absolutely necessary, for the better protection of the citizens at large, as well as for the honestly disposed dealers, that some measures be taken to prevent fraud and to secure fair and honest competition in the retail coal trade in the city of Philadelphia; therefore . . .

The legal standard ton for anthracite coal shall be two thousand two hundred and forty pounds avoirdupois weight.[1]—27 May, 1871, §1, P. L. 1287.

b. Inspection Districts Established in Philadelphia

§82 1) For the purpose of carrying into effect the provisions of this act, the city of Philadelphia shall be divided into three districts; the first district shall comprise all that portion of the said city lying south of the south side of Chestnut street; the second district shall comprise all that portion of said city north of the south side of Chestnut street, extending to the south side of Girard avenue, and also to the south side of the track of the Pennsylvania railroad west to the intersection of Girard avenue therewith; the third district shall comprise all the remaining portion of said city north of the south side of Girard avenue, and also of the south side

[1] In force but supplied by 26 June, 1895, §1, P. L. 334. See §44 of this digest.

of the track of the Pennsylvania railroad west of the intersection of Girard avenue therewith.—27 May, 1871, §2, P. L. 1288.

c. Governor, Councils, and Mayor to Appoint Inspectors

§83 1) The governor shall appoint one inspector, and select and common councils of the city and county of Philadelphia, are hereby authorized and empowered to elect one inspector, and the mayor of the said city to appoint one inspector, within thirty days from the date of the passage of this act, and every three years thereafter a person of suitable qualifications, who shall be styled an inspector; the said inspectors shall decide by lot among themselves the district which each one of said inspectors is to occupy.—27 May, 1871, §3, P. L. 1287.

d. Candidates for Inspector to Have No Interest in Coal Mining or Trade

§84 1) No person interested in the mining or sale of coal shall be eligible under the provisions of this act.—27 May, 1871, §15, P. L. 1290.

e. Inspectors to Stamp or Brand Delivery Vehicles With Capacity

§85 1) It shall be the duty of the inspectors to examine . . . every cart, wagon or other vehicle used for the delivery of anthracite coal in their respective districts, and to ascertain, by measurement or otherwise, the capacity of said vehicles; and if the cart, wagon or other vehicle will contain two thousand two hundred and forty pounds, or fractional fourths thereof, avoirdupois weight, of hard white ash Schuylkill coal, the said inspector shall put in a conspicuous place on said vehicle

his stamp or brand, made for such purpose and denoting the capacity of said vehicle.—27 May, 1871, §4, P. L. 1288.

§86 2) The stamp shall be put upon each cart, wagon or other vehicle in fast colors, by the inspector of the district in which it belongs; and when it shall become obliterated from any cause, the owner of such cart, wagon or other vehicle shall have the same re-stamped, and pay therefor to the said inspector the sum of one dollar; and upon the failure or neglect of said owner to comply with the provisions of this section, he shall be compelled to pay a fine of ten dollars.—3 Apr., 1872, §2, P. L. 773.

f. Unlawful to Use Unbranded Vehicle or to Change Capacity of Branded Vehicle—Penalty

§87 1) It shall be unlawful for any cart, wagon or other vehicle to be used in delivering anthracite coal within the city of Philadelphia, unless the said inspector's stamp or brand is placed thereon; and every person found violating this provision shall be subject to the penalty or penalties as hereinafter provided.—27 May, 1871, §5, P. L. 1288.

§88 2) Every retail coal dealer in the city of Philadelphia who shall use any cart, wagon, or other vehicle in delivering anthracite coal in said city, which shall not have been stamped by the said inspectors as heretofore provided in this act, shall be compelled to pay a fine of ten dollars, one-half of which shall go to the city and one-half to said inspector.—27 May, 1871, §11, P. L. 1289.

§89 3) Any person who shall change or alter the size or capacity of any cart, wagon or other vehicle, used in delivering anthracite coal in the city of Philadelphia, and stamped under the provisions of an act to which this is

a supplement [To regulate the weight of anthracite coal delivered by retail coal dealers in the city of Philadelphia.—27 May, 1871, P. L. 1287], with intent to defraud, by the reducing of such cart, wagon or other vehicle to a less capacity than is indicated by the stamp thereon, shall be guilty of a misdemeanor, and upon conviction thereof, shall be compelled to pay a fine not exceeding fifty dollars and undergo an imprisonment not exceeding six months: Provided, however, that neither of the coal inspectors of said city shall be prevented from altering the size or capacity of any stamped cart, wagon or other vehicle used for the delivery of anthracite coal in the said city, and restamping the same.—3 Apr., 1872, §1, P. L. 772.

g. Inspectors May Arrest

§90 1) Each of the said coal inspectors shall have authority to arrest, or direct any police officer or constable of the city of Philadelphia to arrest, any person or persons, found violating this act or the act to which this is a supplement [To regulate the weight of anthracite coal delivered by retail coal dealers in the city of Philadelphia.—27 May, 1871, P. L. 1287], and to take him or them before any [magistrate][1] of the city of Philadelphia, for a hearing.—3 Apr., 1872, §7, P. L. 774.

h. Inspectors May Test Weight of Loads—Penalty

§91 1) The said inspectors are hereby authorized and empowered, at their discretion, to order any cart, wagon or other vehicle, used by any retail coal dealer in delivering anthracite coal, to be brought to any scales, within four hundred yards of the place where said coal shall have been loaded, or within four hundred yards of the place of arrest by the inspector, that have been regulated by the proper officer within twelve months then preced-

[1] Constitution, 1874, art. 5, §12.

ing, and thereon the said inspector shall take the weight of the vehicle loaded, and after the coal shall have been taken to its destination, or immediately, if the owner or driver shall desire the same, the said inspector shall take the weight of the vehicle unloaded.—27 May, 1871, §6, P. L. 1288.

§92 2) For the refusal of any driver of any such vehicle to comply with the request of any of said inspectors to drive to a weigh scale: Provided, the scales designated are within four hundred yards of the place where the said coal shall have been loaded, the said inspector may order the driver under arrest, and take measures to weigh said coal himself; said driver, for such refusal, shall be compelled to pay a fine of five dollars, one-half to go to the city, the other half to the said inspector.—27 May, 1871, §12, P. L. 1289.

§93 3) Any person who shall refuse to permit the scales chosen by said inspector to be used by him, shall be compelled to pay a fine of ten dollars, one-half of which shall go to the city the other half to the said inspector. —27 May, 1871, §13, P. L. 1289.

§94 4) The said inspectors are hereby authorized and empowered, at their discretion, to order any cart, wagon or other vehicle used by any retail coal dealer in delivering anthracite coal within the city of Philadelphia, to be taken back to the place where the said coal shall have been loaded: Provided, The place of arrest be within four hundred yards thereof, where the inspectors may take the weight of the vehicle loaded; and after the coal shall have been taken to its destination, or immediately if the owner or driver shall desire the same, the said inspector shall take the weight of the vehicle unloaded; and for the refusal of any driver of any such vehicle, to comply with the order of any of said inspectors, to drive

back to the place where the coal shall have been loaded, he shall be compelled to pay a fine of ten dollars.—3 Apr., 1872, §5, P. L. 773.

i. Inspectors to Notify Dealers of Short Weight

§95 1) If the said inspector shall find the weight of coal contained in the said vehicle, to be less than two thousand two hundred and forty pounds avoirdupois for a ton, and for a fraction of a ton, in a relative proportion, being less than said vehicle was represented to contain, allowing forty pounds for constantly changing weight of animal and vehicle, the said inspector shall notify the dealer owning said coal, so found to be deficient in weight, of the same, and of the penalty incurred.—27 May, 1871, §7, P. L. 1288.

j. Retail Dealers Subject to Fine for Short Weight or for Use of Unbranded Vehicle

§96 1) Any retail coal dealer sending out into the highway a load of anthracite coal, containing less than two thousand two hundred and forty pounds avoirdupois for a ton, except when delivering fractions of a ton, or if delivering a fraction of a ton and said fraction of a ton contain less relatively than the legal standard of two thousand two hundred and forty pounds avoirdupois, the dealer so acting shall be compelled to pay a fine of fifty dollars, one-half to go to the city and one-half to the said inspector.[1]—27 May, 1871, §14, P. L. 1289.

§97 2) Any person delivering or causing to be delivered anthracite coal into any unstamped cart, wagon or other vehicle used for the delivery of anthracite coal by retail, within the city of Philadelphia, with knowledge that such cart, wagon or other vehicle is used for such pur-

[1] Repeal clause, section 15.

pose within the said city, shall be compelled to pay a fine of ten dollars for each offence.—3 Apr., 1872, §3, P. L. 773.

k. Salary of Inspectors—Inspectors to be Sworn

§98 1) The salary of each of the said inspectors shall be the sum of one thousand six hundred dollars per annum . . . to be paid from the city treasury, on a warrant drawn by the mayor of the city; and each of the said inspectors shall be qualified upon oath to perform honestly and truly their several duties to the best of their abilities.—27 May, 1871, §8, P. L. 1289.

l. Tax on Retail Dealers

§99 1) To provide means for the payment of the salaries of the said inspectors, each retail coal dealer in the city and county of Philadelphia, shall pay an annual tax . . . equal in amount to the mercantile tax now in force, to be assessed and collected in the same manner and by the same officers as the said mercantile tax is now collected, and the amount so collected to be paid into the hands of the city treasurer.—27 May, 1871, §9, P. L. 1289.

m. Inspection Fees

§100 1) For each cart, wagon or other vehicle used by any retail coal dealer in delivering anthracite coal in the city of Philadelphia, stamped by the said inspectors, and which stamp is the consumer's guarantee of its proper capacity, the owner shall pay to the said inspector one dollar.—27 May, 1871, §10, P. L. 1289.

n. Retail Dealers to Furnish Delivery Tickets Showing Quantity in Each Load—Penalty

§101 1) It shall be unlawful for any retail coal dealer of the city of Philadelphia, to deliver any quantity or quan-

tities of anthracite coal, which shall have been sold by weight, without each such delivery being accompanied with a delivery-ticket, whereon shall be distinctly expressed in tons, fractional fourths thereof, or pounds avoirdupois, the quantity or quantities of coal contained in the cart, the wagon or other vehicle used in such delivery, with the name of the purchaser thereof, and the dealer from whom purchased; and for each failure or refusal to produce such delivery ticket when called for by either of the inspectors or the purchaser of the coal, the driver or owner of the vehicle shall be compelled to pay a fine of ten dollars.—3 Apr., 1872, §4, P. L. 773.

o. Procedure for Recovery of Penalties

§102 1) All penalties provided by this act, and the act to which this is a supplement [To regulate the weight of anthracite coal delivered by retail coal dealers in the city of Philadelphia.—27 May, 1871, P. L. 1287.], shall be recoverable by action of debt in the same manner as penalties are now by law recoverable, to be brought in the name of the coal inspector; one-half of said fines and penalties to go to the city of Philadelphia, and the other half to go to the said inspector; and corporations and companies violating this act, or the act to which this is a supplement, shall incur like penalties with individuals.[1]—3 Apr., 1872, §6, P. L. 773.

2. Grain and Salt—Imported

a. Governor to Appoint Measurer of Corn and Salt

§103 1) There [shall] be appointed by the [governor][2] of this commonwealth some proper and discreet person, to be the measurer of all kinds of corn and salt imported or brought into the port and city of Philadelphia for sale; which officer, before he enters on the duties of the

[1] Repeal clause, section 9.
[2] 22 Apr., 1794, 3 Smith's Laws, 185.

office, shall take and subscribe before one of the judges of the court of common pleas for the county of Philadelphia, an oath or affirmation, that he will in all things well and faithfully execute the office of measurer of corn and salt, within the city and port of Philadelphia, according to the best of his knowledge and ability, and the directions contained in this act.—22 Sept., 1785, §2, 2 Smith's Laws, 350.

b. Measurer of Corn and Salt to Measure Imported Grain and Salt

§104 1) The duty of the said officer shall be:

To provide, at his own cost, a sufficient number of barred half bushel measures for corn, and unbarred half bushel measures for salt, made of dry, well seasoned white oak, and to have the same compared with and regulated by the public standard half bushel measure kept in the city of Philadelphia, at least twice in every year that the same shall be used:

To employ a sufficient number of able-bodied and trusty persons, to act as his deputies, in the measuring and striking all kinds of corn and salt, which shall be imported and brought into the city or port of Philadelphia for sale, which deputies, before they shall take upon themselves to measure any corn or salt, shall take and subscribe before one of the said judges, the like oath or affirmation hereinbefore mentioned:

The said officer shall, upon notice to him given in writing, that any ship, shallop or vessel, boat, cart or wagon, hath imported or brought into the city or port any corn or salt, and that the same is sold and ready to be delivered to the purchaser, send one or more of his deputies, within two hours, to measure the same; which deputy or deputies, taking with them a sufficient number of the said half bushel measures, therewith shall well and faithfully measure the same, and forthwith deliver

to the seller an account of the number of bushels by him measured and delivered, and a duplicate thereof to the buyer; and shall every day, on which he shall measure any corn or salt, return to the said officer an account of the whole quantity by him measured, with the name of the seller and buyer, and the ship, vessel, boat, cart or wagon, from which the same was delivered.

The said officer shall keep a fair book, in which he shall register the date, names of the sellers and buyers, the quantity and species of the corn and salt measured; which book shall be open for the inspection of the sellers and buyers, at any time when they shall have occasion to refer to the same.—22 Sept., 1785, §3, 2 Smith's Laws, 350.

c. Measurer of Corn and Salt May Remove Deputies

§105 1) Upon like complaint [made by any two dealers in corn or salt, dwelling in the city of Philadelphia, the township of the Northern Liberties or district of Southwark], to be made to two of the jusitces of the court of common pleas for the county of Philadelphia, that any of the deputies of the said officer has misbehaved himself, or neglected his duty, the said two justices shall . . . summon the party complained of, and if they see cause deprive him of the office of deputy-measurer, after which he shall not be qualified to measure any grain or salt bought or sold within this city or port.—22 Sept., 1785, §7, 2 Smith's Laws, 352.

§106 2) The measurer of all kinds of corn and salt, imported or brought into the port of Philadelphia for sale, shall have full power and authority to remove any deputy measurer, and appoint another, or others, from time to time, as he may deem necessary; and if any deputy or deputies, after such removal, shall measure any grain, seed, salt or coal, contrary to the meaning of this act, he shall, for every such offence, forfeit and pay

a fine of fifty dollars, to be recovered in the same manner that any other debt is by law recoverable.—16 June, 1836, §4, P. L. 683.

§107 3) Upon complaint made to the said measurer, by any two citizens of this commonwealth, that any of his deputies have misbehaved themselves in the performance of their duties, or have neglected the same, and if he shall find the said complaint to be true, he shall remove such deputy measurer from office.—16 June, 1836, §5, P. L. 683.

d. Buyers to Receive Certificates of Weight

§108 1) The head measurer, and his deputies, when weighing grain, shall keep true and accurate accounts of the same, and furnish to buyer and seller a certificate of the weight; and whenever their services may be required, by buyer, or seller, to weigh grain, the charges therefor, shall be no greater than for measuring; and for all grain that a deputy may either measure or weigh, he shall make return to the head measurer.—12 Apr., 1867, P. L. 74.

e. Fees

§109 1) The fees to be received by the several inspectors in the city and county of Philadelphia shall be as follows, to wit.

By the measurer of corn and salt.

In performing the duties enjoined upon him by law, for every one hundred bushels of . . . salt, seven cents.

By the deputies of the said measurer. . . .

For every one hundred bushels of salt which they shall measure and keep an account of, ten cents.—27 Mar., 1821, §1, P. L. 133 (7 Smith's Laws, 418.)

29476—9

§110 2) The fees to be received by the measurer of grain, or his deputies for the port and city of Philadelphia, shall be forty cents for every one hundred bushels of grain of whatever description, including flaxseed, beans and peas, which he or they shall measure, and keep an account of, agreeably to law, and the provisions of any act so far as they are altered or supplied by this act are hereby repealed.—12 Apr., 1842, §19, P. L. 265.

§111 3) If any person whose fees are fixed by this act, by colour of his office or occupation, by custom or under any other prefense whatsoever, shall take any other or greater fees for services performed in pursuance of this act, than are hereby allowed, he shall be deemed guilty of a misdemeanor, and on conviction thereof before any [magistrate][1] of the city . . . of Philadelphia, or justice of the peace of the county of Philadelphia, pay a fine of fifty dollars, one-half to the commonwealth, and one-half to the party injured.—27 Mar., 1821, §2, P. L. 134. (7 Smith's Laws, 419.)

§112 4) Nothing in this act contained shall extend, or be construed to extend, to any retailers of corn or salt, in or out of any store or the public market-places in the city, township or district aforesaid, nor to entitle the said officer to the reward aforesaid, upon any corn or salt which has been once measured in manner aforesaid, and delivered into any store, warehouse or granary in the said city, township or district.—22 Sept., 1785, §8, 2 Smith's Laws, 352.

3. Lime

a. Standard Bushel Measure

§113 1) The bushel used for the measuring of lime in the city and county of Philadelphia . . . shall be of

[1] Constitution, 1874, art. 5, §12.

the following denominations, to wit: thirteen inches and a half in diameter at the bottom in the clear, fifteen inches diameter at the top in the clear, and thirteen inches and forty-seven hundredths perpendicular depth in the clear.—23 Mar., 1819, §1, P. L. 150. (7 Smith's Laws, 192.)

b. Courts to Appoint Officials to Brand Bushel Measures—Penalty

§114 1) It shall be the duty of the several courts of common pleas, within the city and counties aforesaid, to appoint one or more suitable persons in each of said counties, as to them shall appear necessary, whose duty it shall be, after being for that purpose duly sworn or affirmed, by a judge, alderman or justice of the peace [magistrate in Philadelphia][1], of the city or proper county; and a certificate of such qualification, filed in the prothonotary's office, to procure a brand and mark every bushel intended to be used for the measuring of lime, with the letters L. B. in the manner that weights and measures are now stamped or marked in the city of Philadelphia; for which service he shall be entitled to receive twenty-five cents for each bushel so stamped or marked.—23 Mar., 1819, §2, P. L. 150. (7 Smith's Laws, 192.)

§115 2) If any person or persons, in the city or counties aforesaid, shall use, for the measuring of lime, a bushel of any other dimensions, or not stamped as is hereinbefore directed, he or they shall forfeit and pay the sum of five dollars for every such offence, to be recovered before any alderman or justice of the peace [magistrate in Philadelphia],[2] upon due proof to him made, in the same manner that debts of like sum are recoverable, to

[1] Constitution, 1874, art. 5, §12.
[2] Constitution, 1874, art. 5, §12.

be paid to the treasurer of the county wherein the offence was committed, for the use of the county.—23 Mar., 1819, §3, P. L. 151. (7 Smith's Laws, 192.)

4. Marble

a. Governor to Appoint Measurer of Marble

§116 1) The governor . . . is hereby authorized and required to appoint a measurer of marble, whose duty it shall be faithfully to measure all marble, in the rough, brought into the city and county of Philadelphia for sale, when thereto required by the parties, or either of them, whose compensation shall be one cent per foot for cubic marble, and one fourth of a cent per foot for slab marble.—14 Apr., 1838, §9, P. L. 460.

5. Wood and Bark

a. Standard Cord—Penalties

§117 1) All cord wood brought to market within the city and county of Philadelphia, shall be at least four feet in length, including one-half the kerf, and the cord shall be computed at the rate of eight feet in length, four feet in breadth and four feet in height, while stowed and packed, the straight wood shall be placed by all venders of cord wood compactly in the lower part of the pile, and the crooked wood in the upper part thereof, and a reasonable and fair allowance shall be made by all corders or venders of wood for the loss sustained by crooked or uneven wood.—10 Mar., 1817, §2, P. L. 92.

§118 2) If any person shall expose to sale within the city and county of Philadelphia, any wood less than four feet in length, it shall be liable to be seized by any corder of wood and forfeited, one half to the use of the said corder, and the other to the guardians of the poor of the city [department of public health and charities in

Philadelphia],[1] district or township in which it shall be seized; but in case the person exposing the wood for sale, shall deem himself aggrieved thereby, he may appeal to any alderman or justice of the peace of the city [magistrate in Philadelphia],[2] district or township in which the seizure is made, who shall hear, try and determine the same: and if any person shall, within the said limits, sell as a cord of wood or bark, for fuel, any quantity less than the standard measure prescribed by this act, unless the same shall have been previously measured by a corder, and is sold without any change since such measurement, he shall forfeit and pay the sum of ten dollars; and if any corder shall refuse or neglect to perform the duties enjoined on him by this act, he shall, for every such offence, forfeit and pay the sum of ten dollars; and if any corder shall purchase any wood for the purpose of selling it again, he shall forfeit and pay the sum of one hundred dollars, which several penalties and forfeitures may be recovered as debts of a similar amount are by law recoverable before any alderman or justice of the peace within the city [magistrate in Philadelphia],[2] district or township in which the offence shall have been committed, and shall be one half for the use of the person prosecuting for them, and the other for the guardians of the poor of the said city [department of public health and charities in Philadelphia],[1] district or township.—10 Mar., 1817, §3, P. L. 93. (6 Smith's Laws, 415.)

[1] 1 June, 1885, art. 10, P. L. 48, art. 15, P. L. 58; 8 Apr., 1903, §2, P. L. 156.

[2] Constitution, 1874, art. 5, §12.

X. LAWS AND ORDINANCES INTENDED TO GOVERN THE PURCHASE AND SALE OF FRUITS, BERRIES, VEGETABLES, AND BREAD IN MARKET HOUSES AND MARKET STANDS BELONGING TO THE CITY, BUT INOPERATIVE, WHOLLY OR IN PART, BECAUSE OF LACK OF OFFICIAL SEALERS OF WEIGHTS AND MEASURES

1. Clerks of the Markets to Test Weight of Loaves of Bread—Penalty

§119a. All loaf-bread made for sale, within this commonwealth, shall be sold by the pound avoirdupois, and every baker or other person, offering the same for sale, shall keep at his or her house, or at such other place at which he or she shall at any time offer or expose for sale any such bread, sufficient scales and weights, lawfully regulated, for the purpose of weighing the same; and if any baker or other person shall . . . sell or offer for sale any loaf-bread, in any other manner, the contract respecting the same shall be void, and the person offending against this act shall, on conviction, forfeit and pay the sum of ten dollars for every such offence, one-half to the use of the informer, and the other half to the use of this commonwealth; and it shall be the especial duty of the clerk of the market, in any place where such officer is appointed, to discover and prosecute all persons offending against this act.[1]—1 Apr., 1797. §2, 3 Smith's Laws, 295.

2. Clerks of the Markets to Test Accuracy of Marks Setting Forth, in Terms of Dry Measure, the Capacity of Containers of Fruits, Berries, and Vegetables—Penalty

§120a. The several clerks of the markets[2] are hereby authorized and instructed to test the correctness of such

[1] This act is in force.—Johnson v. Kolb, 3 W. N. C., 273. (1876.)

[2] The power of the clerks of the markets to enforce the ordinance of October 1, 1858, is confined to the public markets.—Warwick's Opinions, 1884; 91.

labels, stamps, or marks [on every basket, box, tub, or other article used for the sale of fruits, vegetables, or berries, in market houses, or market stands, showing in plain characters of at least one inch in size, the capacity in fractional parts of a bushel—§1] as often as they may judge proper, by measuring the contents of any basket, box, tub, bucket, or any other article, by sealed measures of this city; and if any clerk should find any basket or other article which will not contain the quantity represented by the figures or characters marked thereon, or if he should find any basket or other article without such marks, in either case, such basket, box, tub, or other article, with its contents, shall be forfeited, one-third to the clerk, and the other two-thirds, with the basket, box, or tub, shall be delivered by the clerk to the [department of public health and charities.][1]—1 Oct., 1858, §2, O. 359.

3. Sales to be Made Only by Legally Regulated and Stamped Weights and Measures and by Accurate Scales—Penalty

§121a. No person shall use steelyards or spring balances within the market houses, market places or market limits [belonging to the city], nor shall sale be made by other weights and measures than such as shall have been legally regulated and stamped, and by just scales.—12 Dec., 1865, §12, O. 415.

§122b. Any person or persons who shall be guilty of violating any of the provisions of the above ordinance, shall pay for each and every such offence such fines as are hereafter stipulated, together with the costs thereon to be recoverable as fines are now recoverable by law. The penalties follow: . . .

Section 12 . . . the sum of twenty dollars.[2]—12 Dec., 1865, §19, O. 416.

[1] 1 June, 1885, art. 10, P. L. 48, art. 15, P. L. 58; 8 Apr., 1903, §2 P. L. 156.

[2] Repeal clause, section 20.

XI. GENERAL PENAL PROVISIONS, INOPERATIVE IN PHLADELPHIA BECAUSE OF LACK OF OFFICIAL SEALERS OF WEIGHTS AND MEASURES

1. For Failure to Comply With Recommendations of Sealers, or for Selling by False Beams, Scales, Weights, or Measures

§123a. In case any maker, vender or proprietor of beams, scales, weights or measures, within the city or county of Philadelphia, or county for which a sealer has been appointed, shall neglect or refuse to comply with the requisitions which the regulator of weights and measures is authorized and directed to make, or shall sell by false beams, scales, weights or measures, such person or persons so offending shall, for each and every offence, forfeit and pay the sum of five dollars, which may be sued for, and recovered as debts of the like amount are by law recoverable for the use of the poor of the city, district or township, in which such fine shall have been incurred: Provided, That the provisions of the fifth and sixth sections of this act[1] shall not be so construed as to extend to such beams, scales, weights and measures, as shall not be used by the proprietors thereof, for the purpose of buying and selling the same.—15 Apr., 1845, §7, P. L. 444.

2. For Offering for Sale any Unsealed Dry Measures

§124a. It shall be the duty of any person or persons offering dry measures for sale, within the limits of the city and county of Philadelphia, to have the same stamped and sealed by the proper officer of said city and county, and any person found guilty of offering or exposing for sale any dry measure without having the same sealed

[1] These sections were repealed by implication by 8 Mar., 1883, P. L. 6. See p. 18.

and adjusted by the proper officer as aforesaid, shall be liable to a penalty of five dollars for every such offence, to be collected as debts of like amount are now collected, one-half to go to the informer, and the other half to the use of said county.[1]—18 Mar., 1842, §6, P. L. 126.

3. For Altering Sealed Measure, or Selling by the Same

§125a. Any person who shall, in any way, alter any measure, so that the capacity thereof is diminished, after the same shall have been adjusted and sealed, or shall, in buying or selling, use any measure so altered; and any person who shall alter any scale, beam or weight, so as to impair the adjustment thereof, after the same shall have been adjusted and sealed; and any dealer, vender or weigher, who shall have in his possession any scale, beam, weight or measure, so altered as aforesaid, shall, on conviction thereof, before any alderman or justice of the peace [magistrate in Philadelphia],[2] forfeit and pay the sum of ten dollars; and if the person so convicted refuse or neglect to satisfy such forfeiture, with costs, immediately, or produce goods and chattels sufficient whereon to levy the said forfeiture, together with cost, then the said alderman or justice of the peace [magistrate][2] shall commit the offender to the jail of the county wherein the offence was committed, there to be kept at hard labor for the space of thirty days.—21 Apr., 1846, §1, P. L. 467.

4. Appeals

§126a. Any person who shall be convicted as aforesaid, and shall think himself or herself aggrieved by such conviction, may remove the proceedings, by *certiorari,* to the next court of quarter sessions, held for the city or county wherein the offence shall have been committed;

[1] Repeal clause, same section.
[2] Constitution, 1874, art. 5, §12.

and on the hearing of the *certiorari,* the court may, if they think proper, examine testimony; but no judgment shall be reversed for any matter of form, if it shall be proved to the satisfaction of the court, that the offence charged has been committed by the defendant.—21 Apr., 1846, §2, P. L. 468.

5. Disposition of Fines

§127a. One moiety of the forfeitures in money accruing and becoming due for any offence against this act, shall be paid to the overseers or guardians of the poor of the city, borough or township, wherein the offence shall have been committed [department of public health and charities in Philadelphia],[1] and the other moiety to the person or persons who shall prosecute and sue for the same.—21 Apr., 1846, §3, P. L. 468.

[1] 1 June, 1885, art. 10, P. L. 48, art. 15, P. L. 58; 8 Apr., 1903, §2, P. L. 156.

APPENDIX B

Suggestions for National and State Laws Adopted by the National Conference on Weights and Measures at the Third Annual Conference, May 16-17, 1907

National Law

The Secretary of Commerce and Labor is authorized to furnish a complete set of standard weights and measures, adopted or accepted by the National Bureau of Standards, to any State, Territory, and the District of Columbia, under the following conditions:

Sec. 1. That the office of state commissioner of weights and measures be established.

Sec. 2. That facilities such as suitable quarters and equipment be provided for the state commissioner of weights and measures at the expense of the State or Territory.

Sec. 3. That the state commissioner of weights and measures be required to make an annual report to the governor, a copy of which shall be filed with the National Bureau of Standards, giving, in addition to other information, the number of weights, measures, and balances tested, sealed, or condemned by him, together with an inventory of the standards and apparatus in his possession.

Sec. 4. No weighing or measuring device shall be used for the purpose of trade until the type has been approved by the National Bureau of Standards. Any type so approved may be used anywhere in the United States: Provided, That nothing in this act shall prevent the state commissioner of weights and measures or local inspector from condemning such device if its operation should be defective.

Monthly bulletins giving a description of any weighing or measuring device approved by the National Bureau of Standards shall be sent to the state officer of weights and measures of each state.

Sec. 5. Model regulations for the guidance of state commissioners of weights and measures and local inspectors shall be prepared by the National Bureau of Standards in coöperation with the National Association of State Commissioners.

Sec. 6. The model regulations, prepared and issued by the National Bureau of Standards, shall govern the procedure to be followed by the state commissioner of weights and measures and local inspectors in inspecting, testing, and sealing all weights, measures, balances, or measuring devices.

Sec. 7. The net quantity of the contents of all packages shall be plainly stated in terms of weight or measure on the outside of the package.

Local Law

Sec. 8. The weights, measures, and balances received from the United States under a resolution of Congress, approved June 14, 1836, and such new weights, measures, and balances as shall be received from the United States as standard weights, measures, and balances in addition thereto or in renewal thereof, shall be the authorized standards by which all county and municipal standards of weights and measures shall be tried, proved, and sealed.

Sec. 9. There shall be a state commissioner of weights and measures to be appointed by the governor, in such manner and at such salary as may be fixed by the respective state legislatures; and deputy commissioners may be appointed as required.

Sec. 10. The state commissioner of weights and measures shall have the exclusive custody and control of the state standards received from the National Government, which shall be kept in a fireproof room provided by the State, when not in actual use. He shall maintain the state standards in good order, and submit them once in ten years to the National Bureau of Standards for inspection.

Sec. 11. The state commissioner of weights and measures shall keep a complete record of standards, balances, and other apparatus in his possession, and take a receipt for the same from his successor in office.

Sec. 12. The state commissioner of weights and measures shall be sworn, and shall give bond to the State for five thousand dollars, conditioned on the faithful discharge of his duties.

Sec. 13. The state commissioner of weights and measures or deputy commissioner shall inspect all standards used by the county and municipal inspectors at least once in five years, and shall keep a record of same, and see that they are kept in proper adjustment with the state standards. He shall visit the various cities and towns of the State in order to inspect the work of the local sealers, and in the performance of his duty he may inspect the weights, measures, and balances of any person (or corporation) which are used for buying or selling goods, merchandise, or other commodities, and for public weighing.

Sec. 14. Every county and municipality in the State shall appoint a sealer, with a sufficient number of deputies to inspect at least once a year every weight, measure, balance, or measuring device of any kind used in trade within the jurisdiction of said county or municipality.

Sec. 15. Any two or more local authorities may combine the whole or any part of their districts upon such terms and in such manner as may be agreed upon.

Sec. 16. An inspector appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are parties to the agreement.

Sec. 17. Every county and municipality shall provide the local sealer with suitable standards, apparatus, and quarters to enable him to properly perform his duties, all of

which shall be subject to the approval of the state commissioner of weights and measures.

Sec. 18. It shall be the duty of the sealer to faithfully devote his time to the performance of the duties of his office, and to test all weights, measures, scales, beams, and steelyards used in trade, or other machinery used for weighing or measuring, within his district, at least once in every year; and upon being notified in writing by any person that any weight, measure, scale, beam, or steelyard used in trade, or other machinery for weighing or measuring any article intended to be purchased or sold in such district, is inaccurate, or believed to be so, or not according to the standard, to at once make an examination of the same.

And in the exercise of such duties he shall have full police power to enforce any and all reasonable measures for testing such weights and measures, and also in ascertaining whether false or short weights and measures are being given in any sales or transfer of articles of merchandise taking place within such district.

Sec. 19. Every local sealer shall make an annual report of the weights, measures, and balances tested by him, together with an inventory of the standards and working apparatus, to the state commissioner of weights and measures.

Sec. 20. All weights, measures, and balances which can not be made to conform to the standards shall be destroyed by the sealer.

Sec. 21. The local sealer shall report monthly to the state commissioner of weights and measures the names and occupations of all persons convicted for the use of fraudulent weights, measures, balances, or measuring devices, who shall publish the same in a daily paper of general circulation throughout the state.

Sec. 22. Any person who neglects or refuses to produce for said sealer all weights, measures, or balances in his possession, and used in trade, or on his premises, or refuses

to permit the sealer to examine the same, or obstructs the entry of the sealer, or otherwise obstructs or hinders a sealer under this law, shall be liable to a fine not exceeding twenty-five dollars, and in a second offense of fifty dollars.

Sec. 23. A local standard which has become defective in consequence of any wear or accident, or has been repaired, shall not be legal, nor be used by the local sealer until it has been reverified by the state commissioner of weights and measures.

Sec. 24. Any sealer or deputy sealer of weights and measures shall forthwith, on his appointment, give bond in the sum of one thousand dollars for the due performance of the duties of his office, and for the safety of the local standards and the stamp appliances for verification committed to his charge, and for the surrender immediately on his removal or cessation from office to the person appointed by the proper authority to receive them.

Sec. 25. If a sealer or deputy sealer stamps a weight or measure without duly verifying the same by comparison with a local standard, or is guilty of a breach of any duty imposed upon him by law, or otherwise misconducts himself in the execution of his office, he shall be liable to removal or to pay a fine not exceeding two hundred dollars for each offense.

Sec. 26. A local standard shall not be deemed legal nor be used by the local sealer for testing any weight, measure, or balance unless it has been verified by the state commissioner of weights and measures within at least five years of the time at which it is used, or whenever necessary.

General Regulations

Sec. 27. No weight, measure, balance, or measuring device of any kind shall be used in trade until it has been examined and sealed by the state commissioner of weights and measures or local sealer.

Sec. 28. All computing devices shall be tested as to the correctness of the values, and all values, whether in money, figures, or graduations, shall be correctly placed, so that when any commodity is weighed thereon the money value registered shall be the true value of the commodity weighed.

Sec. 29. Every weight, except when the small size of the weight renders it impracticable, shall have the denomination of such weight stamped on the top or side thereof in legible figures or letters; and every measure of capacity shall have the denomination thereof stamped on the outside of such measures in legible figures and letters.

A weight or measure not in conformity with this section shall not be stamped by the state commissioner of weights and measures or local sealer.

Sec. 30. Every person who uses or has in his possession for use in trade any weight, measure, scale, balance, steelyard, or weighing machine which is false or unjust shall be liable to a fine not exceeding twenty-five dollars, or in the case of a second offense, fifty dollars, and any contract for gain, sale, or dealing made by the same shall be void, and the weight, measure, scale, balance, or steelyard shall be liable to be forfeited.

Sec. 31. A weight or measure duly stamped by the state commissioner of weights and measures or a sealer, or by the National Bureau of Standards, shall be a legal weight or measure throughout the state, unless found to be false or unjust, and shall not be liable to be restamped because used in any other place than that in which it was originally stamped.

Sec. 32. Where any fraud is willfully committed in the using of any weight, measure, scale, balance, or steelyard, or weighing machine, the person committing such fraud, and every person party to the fraud, shall be liable to a fine not exceeding twenty-five dollars, or in case of a second offense fifty dollars.

Sec. 33. All dealers in milk and cream who use glass bottles, jars, or other receptacles for the distribution of milk or cream to consumers shall bring in such bottles, jars, or other receptacles to the office of the sealer of weights and measures in their respective cities and towns, to be sealed as aforesaid; but no fee shall be charged or received for sealing them. If a bottle, jar, or other receptacle has once been sealed by the sealer of weights and measures it shall not in any case be necessary to have it sealed again at any time while it is used for the distribution of milk or cream to consumers. Glass bottles, jars, or other receptacles sealed under the provisions of this section shall not be legal measures except for the distribution of milk or cream to consumers.

Sec. 34. Every person who, in putting up in any bag, bale, box, barrel, or other package, any hops, cotton, wool, grain, hay, or other commodity sold in bags, bales, boxes, barrels, or packages by weight or measure, puts in or conceals therein anything whatever for the purpose of increasing the weight or measure of such bag, bale, box, barrel, or package, with intent thereby to sell the commodity therein, or to enable another to sell the same, for an increased weight or measure, is punishable by fine of not less than twenty-five dollars for each offense.

29476—10

APPENDIX C

Model Uniform Regulations for State Legislation on the Subject of Weights and Measures Adopted by the Sixth Annual Conference on Weights and Measures, Feb. 17-18, 1911

Sec. 1. The weights and measures received from the United States under a resolution of Congress approved June 14, 1836, and such new weights and measures as shall be received, from the United States as standard weights and measures in addition thereto or in renewal thereof, and such as shall be supplied by the State in conformity therewith and certified by the National Bureau of Standards, shall be the State standards, by which all county and municipal standards of weights and measures shall be tried, proved, and sealed.

Sec. 2. There shall be a State superintendent of weights and measures, who shall be appointed by the Governor by and with the advice and consent of the Senate. Such superintendent shall be appointed for a term of five (four) years and shall receive a salary of ..... dollars a year. There shall be a deputy superintendent of weights and measures and inspectors of weights and measures, the deputy to be appointed by the superintendent of weights and measures and to hold office during the superintendent's term of office; the inspectors to be appointed from an eligible list prepared by the Civil Service Board and under the rules of said Board. The superintendent of weights and measures shall be allowed for salaries for the deputy superintendent of weights and measures, inspectors of weights and measures, clerical services, traveling and contingent expenses for himself, his deputy, and inspectors such sums as shall be appropriated by the Legislature.

Sec. 3. The superintendent of weights and measures shall take charge of the standards adopted by this article as

the standards of the State, and cause them to be kept in a fire-proof building belonging to the State (or in a safe and suitable place in the office of the superintendent) from which they shall not be removed except for repairs or for certification and he shall take all other necessary precautions for their safe keeping. He shall maintain the State standards in good order and shall submit them at least once in ten years to the National Bureau of Standards for certification. He shall at least once in two (five) years try and prove by the State standards all standard weights, measures, and other apparatus which may belong to any county or city, and shall seal such when found to be accurate by stamping on them the letter "—" and the last two figures of the year with seals which he shall have and keep for that purpose. He shall have and keep a general supervision of the weights, measures, and weighing and measuring devices offered for sale, sold, or in use in the State. He shall, upon the written request of any citizen, firm, corporation, or educational institution in the State, test or calibrate weights, measures, weighing or measuring devices, and instruments or apparatus used as standards in the State. He, or his deputy, or inspectors, by his direction, shall at least once annually test all scales, weights, and measures used in checking the receipts or disbursements of supplies in every institution for the maintenance of which moneys are appropriated by the Legislature, and he shall report in writing his findings to the Supervisory Board and to the executive officer of the institution concerned, and, at the request of such board, or executive officer, the superintendent of weights and measures shall appoint in writing one or more employees then in the actual service of each institution who shall act as special deputies for the purpose of checking the receipts or disbursements of supplies. He shall keep a complete record of the standards, balances, and other apparatus belonging to the State and take a receipt for same from his successor in office. He shall annually, on the first day of ....., make to the Governor a report of the work

done by his office. The State superintendent, or his deputy, or inspectors, at his direction, shall inspect all standards and apparatus used by the counties and cities at least once in two years, and shall keep a record of the same. He, or his deputy, or inspectors, at his direction, shall at least once in two years visit the various cities and counties of the State in order to inspect the work of the local sealers, and in the performance of such duties, he may inspect the weights, measures, balances, or any other weighing or measuring appliances of any citizen, firm, or corporation, and shall have the same powers as the local sealer of weights and measures. The superintendent shall issue from time to time, regulations for the guidance of county and city sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. The State superintendent of weights and measures shall forthwith, on his appointment, give a bond in the penal sum of $5000.00, with sureties, to be approved by the Governor for the faithful performance of the duties of his office, and for the safety of the standards entrusted to his care, and for the surrender thereof immediately to his successor in office or to the person appointed by the Governor to receive them. The deputy superintendent of weights and measures and each inspector of weights and measures shall forthwith upon his appointment give a bond in the penal sum of $1000.00, with sureties, to be approved by the (Secretary of State or Attorney General), for the faithful performance of the duties of his office and for the safety of any apparatus entrusted to his care.

Sec. 4. The board of county commissioners of each county and the common council of each city required to appoint a sealer under this act, shall procure at the expense of the county or city, and shall keep at all times, a complete set of weights and measures and other apparatus of such materials and construction as the said superintendent of weights and measures may direct. All such weights, meas-

ures, and other apparatus having been tried and accurately proven by him, shall be sealed and certified to by the State superintendent as hereinbefore provided; and shall be then deposited with and preserved by the county or city sealer as public standards for such county or city.

Whenever the board of county commissioners of a county or the common council of such city shall neglect for six months so to do, the county auditor of the county, or the city clerk or comptroller of said city, on notification and request by the superintendent of weights and measures, shall provide such standards and cause the same to be tried, sealed, and deposited at the expense of the county or city.

Sec. 5. There shall be a county sealer of weights and measures in each county, who shall be appointed by the board of county commissioners for a term of five years. He shall be paid a salary determined by such board, said salary not to be less than ($1000.00) a year, and no fee shall be charged by him or by the county for the inspection, testing, or sealing of weights, measures, or weighing or measuring devices. Where not otherwise provided by law, the county sealer shall have the power within his county to inspect, test, try, and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measuring, and tools, appliances, or accessories connected with any and all such instruments or measures kept, offered, or exposed for sale, sold, or used or employed within the county by any proprietor, agent, lessee, or employee in proving the size, quantity, extent, area, or measurements of quantities, things, produce, articles for distribution or consumption, offered or submitted by such person or persons for sale, hire, or award; and he shall have the power to and shall from time to time weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale, or sold or in the process of delivering, in order to determine whether the same contains the amounts represented, and whether

they be offered for sale or sold in a manner in accordance with law. He shall at least twice each year and as much oftener as he may deem necessary see that the weights, measures, and all apparatus used in the county are correct. He may for the purpose above mentioned, and in the general performance of his official duties, enter and go into or upon, and without formal warrant, any stand, place, building, or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer whatsoever, and require him, if necessary, to proceed to some place which the dealer may specify, for the purpose of making the proper tests. Whenever the county sealer finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. Whenever the sealer compares weights, measures, or weighing or measuring instruments, and finds that they correspond or causes them to correspond with the standards in his possession, he shall seal or mark such weights, measures, or weighing or measuring instruments with appropriate devices to be approved by the State superintendent of weights and measures. He shall condemn and seize and may destroy incorrect weights, measures, or weighing or measuring instruments which in his best judgment are not susceptible of satisfactory repair; but such as are incorrect and yet may be repaired, he shall mark or tag as "Condemned for Repairs" in a manner prescribed by the State superintendent of weights and measures. The owner or users of any weights, measures, or weighing or measuring instruments of which such disposition is made shall have the same repaired or corrected within ten days, and they may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the sealer. Any apparatus which has been "Condemned for Repairs" and has not been repaired as required above shall be confiscated by the sealer.

The county sealer shall keep a complete record of all of his official acts and shall make an annual report to the board of county commissioners and an annual report duly sworn

to on the first day of ....., to the State superintendent of weights and measures on blanks to be furnished by the superintendent. The county sealer of weights and measures shall forthwith on his appointment give a bond in the penal sum of $1000.00, with sureties, to be approved by the appointing power for the faithful performance of the duties of his office.

PROVIDED, However, That nothing in the above shall be construed to prevent two or more counties from combining the whole or any part of their districts as may be agreed upon by the boards of county commissioners with one set of standards and one sealer, upon the written consent of the State superintendent of weights and measures. A county sealer appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are parties to the agreement.

Sec. 6. There shall be a city sealer of weights and measures in cities of not less than 25,000 population, according to the latest official state or United States census, to be appointed by the Mayor from a list to be furnished by the Civil Service Board and under the rules of such board, where such board exists; otherwise, he shall be appointed by the Mayor by and with the advice and consent of the county council. He shall perform in said city the duties and have like powers as the county sealer in the county. In those cities in which no sealer is required by the above, the county sealer of the county shall perform in said cities the duties and have like powers as in the counties.

PROVIDED, However, That nothing in the above shall be construed to prevent any county and the city situated therein from combining the whole or any part of their districts as may be agreed upon with one sealer, subject to the written approval of the State superintendent of weights and measures. A sealer appointed in pursuance of any agree-

ment for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are parties to the agreement.

Sec. 7. Any person who by himself or by his servant or agent or as the servant or agent of another shall offer or expose for sale, sell, or use or retain in his possession, a false weight or measure or weighing or measuring device or any weight or measure or weighing or measuring device which has not been sealed by the sealer of weights and measures within one year, in the buying or selling of any commodity or thing, or for hire or award; or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law or remove any tag placed thereon by a sealer of weights and measures, or any person who by himself or by his servant or agent or as the servant or agent of another shall sell or offer or expose for sale less than the quantity he represents, or sell or offer or expose for sale any such commodity in a manner contrary to law; (or any person who by himself or by his servant or agent or as the servant or agent of another shall sell or offer for sale or have in his possession for the purpose of selling any device or instrument to be used to or calculated to falsify any weight or measure), shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty (20) dollars or more than two hundred (200) dollars or by imprisonment for not more than three months, or by both such fine and imprisonment upon a first conviction; but upon a second or subsequent conviction he shall be punished by a fine of not less than fifty (50) dollars or more than five hundred (500) dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

Sec. 8. The superintendent of weights and measures, his deputy and inspectors, and the county and city sealers of weights and measures, are hereby made special police-

men, and are authorized and empowered to arrest, without formal warrant, any violator of the statutes in relation to weights and measures, and to seize, for use as evidence, and without formal warrant, any false or unsealed weight, measure or weighing or measuring device or package or amounts of commodities, found to be used, retained or offered or exposed for sale, or sold in violation of law.

Sec. 9. Any person who shall hinder or obstruct, in any way, the superintendent of weights and measures, his deputy, or inspectors, or any county or city sealer, in the performance of his official duties, shall be guilty of a misdemeanor, and shall be punished upon conviction thereof, in any court of competent jurisdiction, by a fine of not less than two (2) dollars or more than two hundred (200) dollars or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment.

Sec. 10. Any person who shall impersonate, in any way, the superintendent of weights and measures, or his deputy or inspectors or any city sealer by the use of his seal, or otherwise shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred (100) dollars nor more than five hundred (500) dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

General Regulations

Sec. 11. Bottles used for the sale of milk and cream shall be of the capacity of half gallon, three pints, one quart, one pint, half pint, and one gill, filled full to the bottom of the lip. The following variations on individual bottles or jars may be allowed, but the average content of not less than 25 bottles selected at random from at least four times the number tested must not be in error by more than one-quarter of the tolerances: 6 drams above and 6 drams below on the half gallon; 5 drams above and 5 drams below on the three pint; 4 drams above and 4 drams below on

the quart; 3 drams above and 3 drams below on the pint; 2 drams above and 2 drams below on the half pint; and 2 drams above and 2 drams below on the gill. Bottles or jars used for the sale of milk shall have clearly blown, or otherwise permanently marked in the side of the bottle, the capacity of the bottle and the word "Sealed;" and in the side or bottom of the bottle the name, initials, or trade mark of the manufacturer, and a designating number, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number shall be furnished by the State superintendent of weights and measures upon application by the manufacturer, and upon the filing by the manufacturer of a bond in the sum of $1000 with sureties to be approved by the (Attorney General or Secretary of State), conditioned upon their conformance with the requirements of this section. A record of the bonds furnished, the designating numbers, and to whom furnished, shall be kept in the office of the superintendent of weights and measures.

Any manufacturer who sells milk and cream bottles to be used in this state that do not comply as to size and markings with the provisions of this section shall suffer a penalty of five hundred (500) dollars, to be recovered by the Attorney General in an action against the offender's bondsmen to be brought in the name of the people of the state. Any dealer who uses, for the purpose of selling milk or cream, jars or bottles purchased after this law takes effect that do not comply with the requirements of this section as to markings and capacity, shall be deemed guilty of using a false or insufficient measure.

Sealers of weights and measures are not required to seal bottles or jars for milk or cream marked as in this section provided, but they have the power and shall from time to time make tests on individual bottles used by the various firms in the territory over which they have jurisdiction, in order to ascertain whether the above provisions are

being complied with, and they shall report violations found immediately to the State superintendent of weights and measures.

Sec. 12. It shall be unlawful to sell or offer to sell in the state any coal or charcoal in any other manner than by weight except by written agreement to the contrary. No person, firm, or corporation shall deliver any coal or charcoal without each such delivery being accompanied by delivery ticket and a duplicate thereof, on each of which shall be in ink or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, and the quantity or quantities of coal or charcoal contained in the cart, wagon, or other vehicle used in such deliveries, with the name of the purchaser thereof and the name of the dealer from whom purchased. One of these tickets shall be surrendered to the sealer of weights and measures upon his demand for his inspection, and this ticket or a weight slip issued by the sealer when the sealer desires to retain the original shall be delivered to the purchaser of said coal or charcoal or his agent or representative at the time of the delivery of the fuel; and the other ticket shall be retained by the seller of the fuel. When the buyer carries away the purchase, a delivery ticket, showing the actual number of pounds delivered over to the purchaser, must be given to the purchaser at the time the sale is made.

Sec. 13. All bread baked and kept for the purpose of sale, offered or exposed for sale, or sold in the state, shall be sold by weight. To each loaf of bread shall be attached a label, plainly showing its weight and the firm name of the manufacturer thereof, the size of the stamp and type used to be specified by the State superintendent of weights and measures. It shall be unlawful for any person to make for sale, sell, or offer to sell, or procure to be sold, any bread other than such as shall be in accordance with the provisions of this section.

14 DAY USE
RETURN TO DESK FROM WHICH BORROWED
LOAN DEPT.
This book is due on the last date stamped below, or on the date to which renewed.
Renewed books are subject to immediate recall.

8 Dec '58 P T
REC'D LD
DEC - 8 1958
9 Jan 59 D H
REC'D LD
JAN - 9 1959

LD 21A-50m-9,'58
(6889s10)476B

General Library
University of California
Berkeley

M56563
QC89
U5P5
1911
Bureau of municipal research.
...The weights and measures situation

M56563
QC
89
U5P5
1911
THE UNIVERSITY OF CALIFORNIA LIBRARY

THE BUREAU OF MUNICIPAL RESEARCH is an incorporated organization which aims in a non-partisan way to promote efficiency and economy in the conduct of municipal affairs.

Its support is derived from private subscriptions, and its final appeal is to enlightened public opinion.

Its scope is as wide as municipal activity; comprehending finance and accounts, public works, safety, health, charities, and education.

Its method is investigation, report to responsible officials, and constructive suggestion.

To be ever alert in the public interest, to conduct its activities judicially, to get the facts and yet to be trusted and to keep faith—this is its ideal.